### **AGENDA**

## SENATE RESOURCES & ENVIRONMENT COMMITTEE 1:30 P.M.

### Room WW55 Wednesday, January 08, 2020

SUBJECT	DESCRIPTION	PRESENTER
WELCOME:	WELCOME to the 2nd Regular Session of the 65th Idaho Legislature.	Chairman Heider
INTRODUCTION OF SECRETARY:	INTRODUCTION of Erin Miller, Committee Secretary.	Chairman Heider
PAGE INTRODUCTION:	INTRODUCTION of Page Ryan Telfer from Meridian, Idaho.	Chairman Heider
INTRODUCTION OF THE RULES:	EXPLANATION of the Administrative Rules process.	Dennis Stevenson, Administrative Rules Coordinator and Brad Hunt, Administrative Rules Specialist

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS COMMITTEE SECRETARY

Chairman HeiderSen PatrickErin MillerVice Chairman BrackettSen GuthrieRoom: WW37Sen BairSen StennettPhone: 332-1323

Sen Johnson Sen Jordan Email: sres@senate.idaho.gov

Sen Mortimer

### MINUTES

### **SENATE RESOURCES & ENVIRONMENT COMMITTEE**

DATE:	Wednesday, January 08, 2020		
TIME:	1:30 P.M.		
PLACE:	Room WW55		
MEMBERS PRESENT:	Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer, Patrick, Guthrie, Stennett, and Jordan		
ABSENT/ EXCUSED:	None		
NOTE:	The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.		
CONVENED:	<b>Chairman Heider</b> called the meeting of the Resources and Environment Committee (Committee) to order at 1:30 p.m.		
WELCOME AND INTRODUCTION:	Chairman Heider welcomed all returning members of the Committee. He introduced the new Committee Secretary Erin Miller and instructed the members to not hesitate in contacting her for Committee business. He then introduced the Committee's Page, Ryan Telfer, and asked him to share his background with the Committee. Mr. Telfer is from Meridian, Idaho, and a senior at Mountain View High School.		
PRESENTATION:	Chairman Heider introduced Dennis Stevenson, Administrative Rules Coordinator, and Brad Hunt, Administrative Rules Specialist, from the Division of Financial Management. <b>Mr. Stevenson</b> presented a rules summary which included a description of omnibus rules, history of the rules, effective dates, and chapters. He also explained that the November 20th special edition bulletin showed the redlined text of changes made to rules up to that time. <b>Mr. Stevenson</b> explained access to the rules website and the Legislative Services Office (LSO) Memorandums' link location and content. He explained that the motion process had not changed.		
DISCUSSION:	<b>Senators Stennett</b> and <b>Patrick</b> , and <b>Mr. Stevenson</b> discussed how to handle agencies with regard to their more stringent federal obligations, as well as the analysis and new drafts of LSO Memorandums.		
	<b>Mr. Stevenson</b> suggested to the Committee that they approve all omnibus dockets first as newer rules were written to fit into the rule.		
	Senators Bair, Mortimer, Guthrie, and Chairman Heider discussed with Mr. Stevenson being able to roll over text and have it show changes, and further clarifying issues.		
ADJOURNED:	There being no further business at this time, <b>Chairman Heider</b> adjourned the meeting at 2:11 p.m.		
<u> </u>			
Senator Heider Chair	Erin Miller Secretary		

### AGENDA

# SENATE RESOURCES & ENVIRONMENT COMMITTEE 1:30 P.M.

### Room WW55 Monday, January 13, 2020

SUBJECT	DESCRIPTION	PRESENTER
DOCKET NO. 58-0000-1900F	Reauthorization of existing and previously approved and codified fee rule chapters under IDAPA 58 rules of the Department of Environmental Quality	John Tippets, Director DEQ
DOCKET NO. 58-0000-1900	Reauthorization of existing and previously approved and codified rule chapters under IDAPA 58 rules of the Department of Environmental Quality	John Tippets, Director DEQ
DOCKET NO. 58-0102-1901	IDAPA 58.01.02, Water Quality Standards Revisions for consistency with EPA action regarding site-specific selenium criterion effective for Clean Water Act Purposes.	Mary Anne Nelson, DEQ Surface and Wastewater Division Administrator
DOCKET NO. 58-0103-1902	Reauthorization of existing and previously approved and codified rule chapter under IDAPA 58 rules of the Department of Environmental Quality: IDAPA 58.01.03, Individual/Subsurface Sewage Disposal Rules.	Mary Anne Nelson, DEQ Surface and Wastewater Division Administrator
DOCKET NO. 58-0109-1901	Reauthorization of rules under IDAPA 58 rules of the Department of Environmental Quality: IDAPA 58.01.09, Rules Regulating Swine Facilities.	Mary Anne Nelson, DEQ Surface and Wastewater Division Administrator
DOCKET NO. 58-0111-1901	Reauthorization of rules under IDAPA 58 rules of the Department of Environmental Quality: IDAPA 58.01.11, Ground Water Quality Rule.	Jerri Henry, DEQ Drinking Water Protection and Finance Division Administrator
DOCKET NO. 58-0117-1901	Reauthorization of rules under IDAPA 58 rules of the Department of Environmental Quality: IDAPA 58.01.17, Recycled Water Rules.	Mary Anne Nelson, DEQ Surface and Wastewater Division Administrator
RS27203	Relating to cyanidation facilities, amending and making technical corrections.	John Tippets, Director DEQ
RS27207	Relating to water. To provide that water may be diverted, without a water right, during an emergency response.	John Tippets, Director DEQ

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS COMMITTEE SECRETARY

Chairman Heider Sen Patrick Erin Miller

Vice Chairman Brackett Sen Guthrie Room: WW37

Sen Bair Sen Stennett Phone: 332-1323

Email:

Sen Johnson Sen Jordan sres@senate.idaho.gov

Sen Mortimer

### MINUTES

### SENATE RESOURCES & ENVIRONMENT COMMITTEE

**DATE:** Monday, January 13, 2020

**TIME:** 1:30 P.M.

PLACE: Room WW55

**MEMBERS** Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer,

**PRESENT:** Patrick, Guthrie, Stennett, and Jordan

ABSENT/ None

EXCUSED:

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with

the minutes in the committee's office until the end of the session and will then be

located on file with the minutes in the Legislative Services Library.

**CONVENED:** Chairman Heider called the meeting of the Senate Resources and Environment

Committee (Committee) to order at 1:30 p.m.

PASSED THE

GAVEL:

Chairman Heider explained that he was turning the gavel over to Vice Chairman Brackett to facilitate the rules discussions. Vice Chairman Brackett stated that the omnibus rules would be discussed first and that the Committee would set aside any rules that were objected to and return to them at the end of the meeting.

or a later date as necessary.

**DISCUSSION:** John Tippets, Director of the Idaho Department of Environmental Quality (DEQ)

introduced himself and other DEQ staff: Deputy Director Jess Byrne, Michael McCurdy, Mary Anne Nelson, Jerri Henry, Mark Dietrich, Lisa Carlson, Paula Wilson, Ed Hagan, and Darika Barnes. He provided background information on

the DEQ's efforts and procedure history regarding their rules.

DOCKET NO. 58-0000-1900F

Reauthorization of existing and previously approved and codified fee rule chapters

under IDAPA 58 rules of the Department of Environmental Quality.

**Mr. Tippets** explained that the DEQ removed unnecessary rules, reorganized and combined rules and chapters, and made non substantive clerical fixes. No one opposed the elimination of rule chapters and the rules were unanimously

approved at their board meeting.

**Senators Bair**, **Jordan**, **Johnson**, and **Mortimer** asked various clarifying questions of Mr. Tippets. He reassured them that nothing was done to change the sense or reading of the rules, and confirmed that there were no changes to fees.

MOTION: Senator Johnson moved to approve Docket No. 58-0000-1900F. Chairman

**Heider** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 58-0000-1900

Reauthorization of existing and previously approved and codified rule chapters

under IDAPA 58 rules of the Department of Environmental Quality.

**Mr. Tippets** discussed this docket's rules and what they covered, listing all separate rules under the docket. He also explained that these rules had already gone through the negotiating process prior to presenting this docket. He pointed out that subsection 25102 was rejected and not passed, therefore remains in force. He mentioned that the DEQ did not change the subsection for temporary rulemaking. He informed the Committee that the Association of Idaho Cities was comfortable with the proposed rules.

**Senators Patrick**, **Guthrie**, **Mortimer**, and **Johnson** asked various clarifying questions of Mr. Tippets. After some discussion and document presentation on the screen, **Mr. Tippets** reassured the Committee that no substantive changes were made and that certain sections of the Idaho Rules of Administrative Procedure of the Attorney General's Office were incorporated into this rule.

MOTION:

Chairman Heider moved to approve Docket No. 58-0000-1900. Senator Jordan seconded the motion. The motion carried by voice vote.

DOCKET NO. 58-0102-1901

IDAPA 58.01.02, Water Quality Standards Revisions for consistency with EPA action regarding site-specific selenium criterion effective for Clean Water Act Purposes.

**Mary Anne Nelson**, DEQ Surface and Wastewater Division Administrator, expanded upon the background of this rule. She noted that no public hearings on this rule were requested and that no anticipated additional cost would be borne. She commented that there were no controversial issues in this rule, which is regulated by the federal government, and it is no broader in scope.

MOTION:

Chairman Heider moved to approve Docket No. 58-0102-1901. Senator Patrick seconded the motion. The motion carried by voice vote.

DISCUSSION:

**Mr. Tippets** summarized the next four dockets as a group of specialized rules. He explained that Idaho Code § 39-107D applies to the DEQ and these dockets. He explained how the DEQ was required to use scientific peer review science to protect human health and the environment, and that they are required to identify and study several components of risks. The following dockets were separated out for consideration to make sure that the DEQ followed the scientific requirements. He assured the Committee that the DEQ did not adopt more stringent standards than the federal government.

**Chairman Heider** asked questions of Mr. Tippets regarding the restrictions and regulations. **Senator Guthrie** asked questions regarding the science of implantation for the standards of the time when the rules were promulgated.

DOCKET NO. 58-0103-1902

Reauthorization of existing and previously approved and codified rule chapter under IDAPA 58 rules of the Department of Environmental Quality: IDAPA 58.01.03, Individual/Subsurface Sewage Disposal Rules.

**Ms. Nelson** gave a description of the rule and explained the reductions made by the DEQ. The rule received no public comments nor were hearings requested. No additional costs were predicted and there were no controversial issues. These rules follow the standards of practice as were in place at the time it was enacted.

MOTION:

Chairman Heider moved to approve Docket No. 58-0103-1902. Senator Mortimer seconded the motion. The motion carried by voice vote.

DOCKET NO. 58-0109-1901

Reauthorization of rules under IDAPA 58 rules of the Department of Environmental Quality: IDAPA 58.01.09, Rules Regulating Swine Facilities.

**Ms. Nelson** discussed the history and facts of this docket relating to swine waste control. She noted it included a permit authorization fee. She stated there are no additional costs if passed as this is a reauthorization of rules already in place. She informed the Committee that there currently are no swine facilities in Idaho that are regulated under these rules.

**MOTION:** 

Senator Patrick moved to approve Docket No. 58-0109-1901. Chairman Heider seconded the motion. The motion carried by voice vote.

DOCKET NO. 58-0111-1901

Reauthorization of rules under IDAPA 58 rules of the Department of Environmental Quality: IDAPA 58.01.11, Ground Water Quality Rule.

**Jerri Henry**, DEQ Drinking Water Protection and Finance Division Administrator, provided background about and explained the rule. She noted there were no substantive changes made, no comments were received by their department, and no hearings were requested.

MOTION:

Senator Guthrie moved to approve Docket No. 58-0111-1901. Senator Mortimer seconded the motion. The motion carried by voice vote.

DOCKET NO. 58-0117-1901

Reauthorization of rules under IDAPA 58 rules of the Department of Environmental Quality: IDAPA 58.01.17, Recycled Water Rules.

**Ms. Nelson** presented a summary of the rule regarding use of recycled water. She stated that no issues were broached under the public comment time frame.

**MOTION:** 

Senator Mortimer moved to approve Docket No. 58-0117-1901. Chairman Heider seconded the motion. The motion carried by voice vote.

PASSED THE GAVEL:

Vice Chairman Brackett turned the meeting back over to Chairman Heider.

RS 27203

Relating to cyanidation facilities, amending and making technical corrections.

**Mr. Tippets** explained this was a simple RS regarding cyanidation facility permits. He explained that the DEQ issues cyanidation permits based upon adequate financial assurance from the Department of Lands within a specific time limit. This RS allows for the issuing of a permit based upon getting financial assurance from the Department of Lands and avoids regulatory problems based on running out of time.

**MOTION:** 

**Vice Chairman Brackett** moved to send **RS 27203** to print. **Senator Stennett** seconded the motion. The motion passed by **voice vote**.

RS 27207

Relating to water. To provide that water may be diverted, without a water right, during an emergency response.

**Mr. Tippets** presented information about DEQ procedures and how they affected water rights in various emergency situations. He conveyed the fact that the DEQ is technically required to have a water right to remove contaminated water from water sources. He informed the Committee that this bill requests an exemption to the requirement to obtain a water right so that the DEQ may remove the water from private lands in the case of an emergency situation. He explained there is no opposition to this piece of legislation and it is not controversial.

**MOTION:** 

**Senator Bair** moved to send **RS 27207** to print. **Senator Mortimer** seconded the motion. The motion passed by **voice vote**.

**ADJOURNED:** 

There being no further business as this time, **Chairman Heider** adjourned the meeting at 2:56 p.m.

Senator Heider	Erin Miller
Chair	Secretary

# AMENDED AGENDA #1 SENATE RESOURCES & ENVIRONMENT COMMITTEE 1:30 P.M.

### Room WW55 Wednesday, January 15, 2020

SUBJECT	DESCRIPTION	PRESENTER
MINUTES APPROVAL:	Committee approval for Minutes of the January 8, 2020 meeting.	Senator Jim Patrick
DOCKET NO. 26-0000-1900:	Department of Parks and Recreation omnibus pending rules, under IDAPA 26, page 211.	Anna Canning, Management Services Administrator, Department of Parks and Recreation
DOCKET NO. 26-0000-1900F:	Department of Parks and Recreation omnibus pending fee rules, under IDAPA 26, page 269.	Anna Canning, Management Services Administrator, Department of Parks and Recreation
DOCKET NO. 15-0300-1900F:	Office of the Governor, Idaho Forest Products Commission omnibus pending fee rules, under IDAPA 15, page 14.	Jennifer Okerlund, Director, Idaho Forest Products Commission
<u>S1216</u>	Relating to cyanidation facilities, amending and making technical corrections.	Michael McCurdy, Waste Management & Remediation Division DEQ
<u>\$1217</u>	Relating to water. To provide that water may be diverted, without a water right, during an emergency response.	Mark Dietrich, Technical Services Division, DEQ

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS		COMMITTEE SECRETARY
Chairman Heider	Sen Patrick	Erin Miller
Vice Chairman Brackett	Sen Guthrie	Room: WW37
Sen Bair	Sen Stennett	Phone: 332-1323
Sen Johnson	Sen Jordan	Email: sres@senate.idaho.gov
Sen Mortimer		

### MINUTES

### SENATE RESOURCES & ENVIRONMENT COMMITTEE

**DATE:** Wednesday, January 15, 2020

**TIME:** 1:30 P.M.

PLACE: Room WW55

**MEMBERS** Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer,

**PRESENT:** Patrick, Guthrie, Stennett, and Jordan

ABSENT/ None

**EXCUSED:** 

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with

the minutes in the committee's office until the end of the session and will then be

located on file with the minutes in the Legislative Services Library.

**CONVENED:** Chairman Heider called the meeting of the Senate Resources and Environment

Committee (Committee) to order at 1:33 p.m.

**DOCKET NO.** Department of Parks and Recreation omnibus pending rules, under IDAPA 26, page

**26-0000-1900** 211.

Anna Canning, Management Services Administrator, Idaho Department of Parks and Recreation (IDPR) introduced herself and other IDPR staff present. She explained the omnibus rules and that IDPR, in line with the Red Tape Reduction Act, updated the rules by removing obsolete rules as well as updated them where necessary. She stated that IDPR eliminated 4 chapters, 22 pages, and 335 restrictions, which was a 40 percent reduction of restrictions from last year. She further commented IDPR removed unnecessary details, duplicate rules, and restrictions on department activities that were better suited as policy. She explained that IDPR received public comments on Idaho safe boating rules to meet current federal rules and they will be addressing those issues at a later time.

**DISCUSSION:** Senators Stennett and Bair discussed with Ms. Canning state safe boating rules.

recreational occupancy, and leasing practices and procedures with recreational

residences in Heyburn.

MOTION: Vice Chairman Brackett moved to approve Docket No. 26-0000-1900. Senator

Johnson seconded the motion. The motion carried by voice vote.

DOCKET NO. 26-0000-1900F Department of Parks and Recreation omnibus pending fee rules, under IDAPA 26,

page 269.

**Ms. Canning** presented this docket and explained it was an existing fee rules reauthorization containing four rule chapters which were previously reviewed and approved. She further explained that in line with the Governor's Red Tape Reduction Act, IDPR eliminated 2 chapters, 10 pages, and 170 restrictions, which equalled a 2 percent reduction in restrictions. She advised that IDPR moved outdated rules to policies so they would be easier for the IDPR to administer.

Senator Mortimer asked if any additional fees were added. Ms. Canning

reassured the Committee that there were no new fees.

MOTION: Senator Johnson moved to approve Docket No. 26-0000-1900F. Senator

**Stennett** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 15-0300-1900F Office of the Governor, Idaho Forest Products Commission omnibus pending fee rules, under IDAPA 15, page 14.

**Jennifer Okerlund**, Director, Idaho Forest Products Commission introduced herself. She explained the rule and informed the Committee that there were no substantial changes made to this docket, the only changes were consolidation and removal of duplication.

MOTION:

**Senator Patrick** moved to approve **Docket No. 15-0300-1900F**. **Senator Jordan** seconded the motion. The motion carried by **voice vote**.

S 1216

Relating to cyanidation facilities, amending and making technical corrections.

**Michael McCurdy**, Waste Management and Remediation Division, Department of Environmental Quality (DEQ) introduced himself and explained the bill. He began by explaining that the DEQ issues cyanidation permits with the condition that the construction and operation of the facility cannot occur until the financial assurance requirements for the permanent closure plan are in order. He stated that the purpose of the proposed changes is to resolve a timing issue between the Department of Lands' process for approval of the permanent closure plan and the DEQ's process for permit approval. He explained that this timing issue occurs due to the fact that DEQ's permit approval process is dependent upon the Department of Land's financial assurance approval process.

Mr. McCurdy referenced his handout and explained the timeline thereon to the Committee (see attachment 1). He addressed the statute requirements for the Department of Lands and DEQ. Generally, the timeline for the Department of Lands can be up to 270 days, and the timeline for the DEQ requires that it must occur within 180 days. He advised that currently, permits can be automatically denied due to timeline issues since the DEQ would not receive the financial assurance within their deadline. He pointed out that he is not suggesting to change the timeline, that this bill is only changing what the issue of a cyanidation permit is tied to; under this bill the time frame for fully satisfying the Department of Lands financial assurance requirements would not prevent the DEQ from issuing a permit within the 180 days required in code. He pointed out that the bill puts the permit on parallel approval paths which was the original intention of the legislation.

**DISCUSSION:** 

**Senator Patrick** asked questions regarding fees. **Mr. McCurdy** reassured the Committee that there would be no additional costs to the state or to regulated facilities.

**Senator Stennett** asked questions regarding the obsolete dates stated in the changes. She inquired if the monthly timeline was still the same even though the year was outdated. **Mr. McCurdy** replied that the procedure was based upon the 180 days timeline, not specific dates.

MOTION:

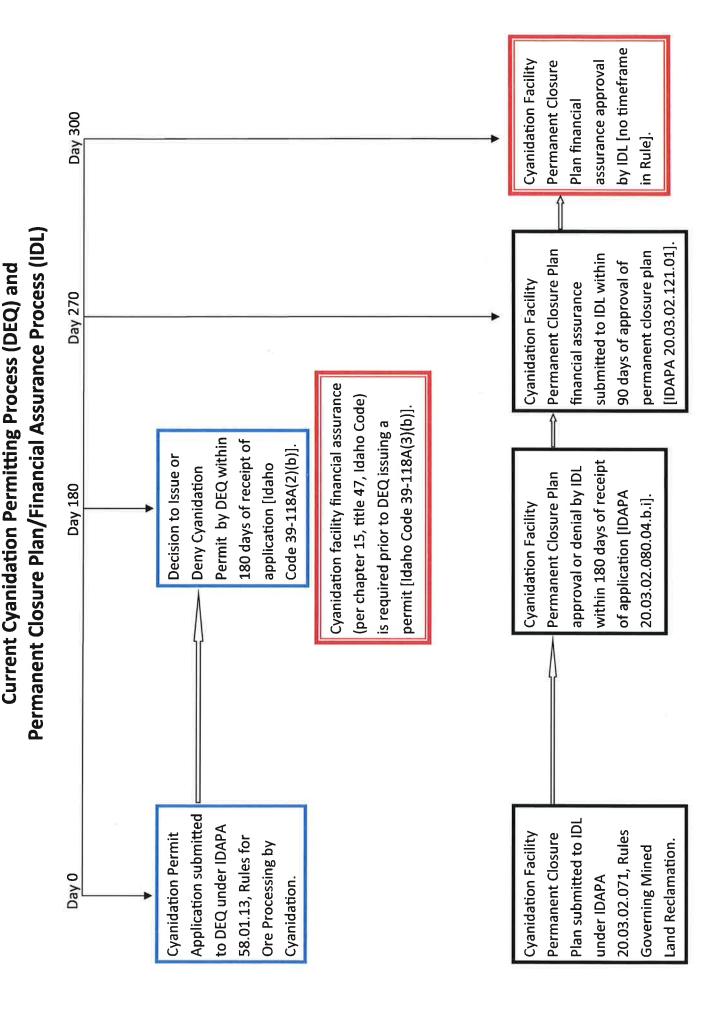
**Senator Mortimer** moved to send **S 1216** to the floor with a **do pass** recommendation. **Senator Bair** seconded the motion. The motion carried by **voice vote**. Senator Mortimer will be the floor sponsor.

S 1217

Relating to water. To provide that water may be diverted, without a water right, during an emergency response.

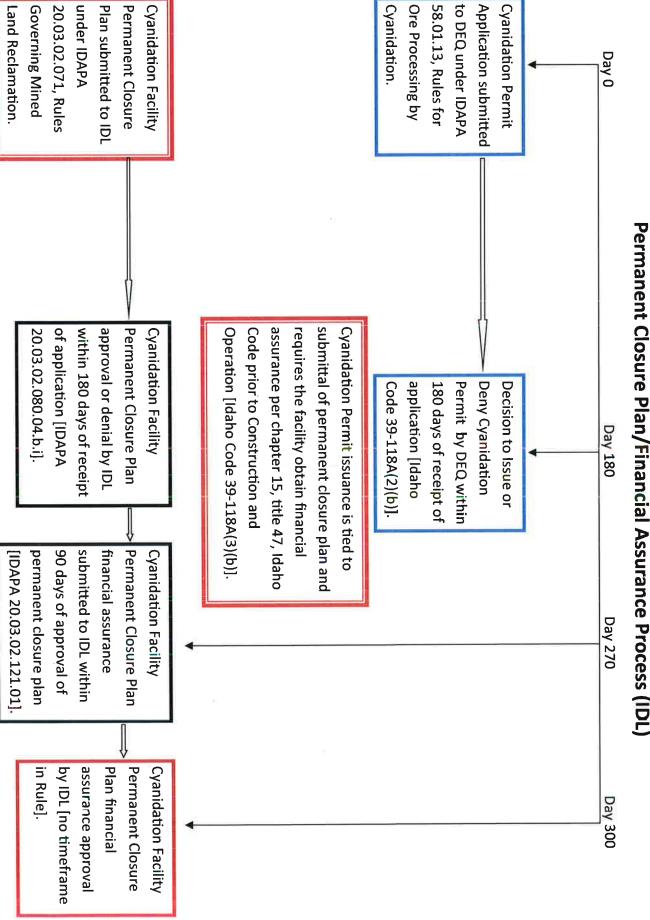
**Mark Dietrich**, Technical Services Division, DEQ introduced himself and explained that this is an emergency spill response bill for an exemption to existing water rights. He informed the Committee that there was no need for any additional funds. He stated that this bill formalizes processes that are already in existence.

**MOTION:** Senator Bair moved to send S 1217 to the floor with a do pass recommendation. Senator Stennett seconded the motion. **TESTIMONY:** Paul Arrington, representing the Idaho Water Users Association, spoke in support of the change this bill would bring. **VOICE VOTE:** The motion to send **S 1217** to the floor with a **do pass** recommendation carried by voice vote. Senator Stennett will be the floor sponsor. **MINUTES** Senator Patrick moved to approve the Minutes of January 8, 2020. Senator APPROVAL: Mortimer seconded the motion. The motion carried by voice vote. There being no further business at this time, Chairman Heider adjourned the **ADJOURNED:** meeting at 2:09 p.m. Senator Heider Erin Miller Secretary Chair



S1216 Ore Processing by Cyanidation 39-118A

# S1216 Ore Processing by Cyanidation 39-118A Amended Cyanidation Permitting Process (DEQ) and Permanent Closure Plan/Financial Assurance Process (IDL)



### AGENDA

# SENATE RESOURCES & ENVIRONMENT COMMITTEE 1:30 P.M.

### Room WW55 Monday, January 20, 2020

SUBJECT	DESCRIPTION	PRESENTER
MINUTES APPROVAL:	Committee approval for Minutes of the January 13, 2020 meeting.	Vice Chairman Bert Brackett
DOCKET NO. 13-0000-1900:	Department of Fish & Game omnibus pending rules, under IDAPA 13, page 4.	Paul Kline, Deputy Director Programs/Policy, Idaho Fish & Game
DOCKET NO. 13-0108-1903:	Department of Fish & Game rules governing the taking of big game animals, page 126.	Paul Kline
DOCKET NO. 13-0108-1904:	Department of Fish & Game rules governing the taking of big game animals, page 129.	Paul Kline
DOCKET NO. 13-0109-1902:	Department of Fish & Game rules governing the taking of game birds, page 132.	Paul Kline
DOCKET NO. 13-0110-1901:	Department of Fish & Game rules governing the importation, possession, release, sale, or salvage of wildlife, page 137.	Paul Kline
DOCKET NO. 13-0117-1901:	Department of Fish & Game rules governing the use of bait and trapping for taking big game animals, page 140.	Paul Kline
DOCKET NO. 13-0000-1900F:	Department of Fish & Game omnibus pending fee rules, under IDAPA 13, page 4.	Paul Kline
RS27202	Relating to Fish & Game, to provide for game tags for swan, to revise provisions regarding upland game bird permits, to revise hunter orange requirements, and to make technical corrections.	Paul Kline

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS		COMMITTEE SECRETARY
Chairman Heider	Sen Patrick	Erin Miller
Vice Chairman Brackett	Sen Guthrie	Room: WW37
Sen Bair	Sen Stennett	Phone: 332-1323
Sen Johnson	Sen Jordan	Email: sres@senate.idaho.gov
Sen Mortimer		

### MINUTES

### SENATE RESOURCES & ENVIRONMENT COMMITTEE

**DATE:** Monday, January 20, 2020

**TIME:** 1:30 P.M.

PLACE: Room WW55

**MEMBERS** Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer,

**PRESENT:** Patrick, Guthrie, Stennett, and Jordan

ABSENT/ None

EXCUSED:

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with

the minutes in the committee's office until the end of the session and will then be

located on file with the minutes in the Legislative Services Library.

**CONVENED:** Chairman Heider called the meeting of the Senate Resources and Environment

Committee (Committee) to order at 1:31 p.m.

MINUTES Chairman Heider delayed approval of the Minutes of the January 13, 2020 meeting

**APPROVAL:** until the presenter arrived.

**DOCKET NO.** Department of Fish and Game omnibus pending rules, under IDAPA 13, page 4. **13-0000-1900** 

Paul Kline, Deputy Director Programs and Policy, Idaho Department of Fish and Game (IDFG), introduced himself and other IDFG staff present: Director Ed Schriever, Jerry Meyers, Scott Reinecker, Tom Curet, Frank Edelmann, Tricia Hebdon, Michael Pearson, Martha Wackenhut, and Toby Boudreau. He also introduced Deputy Attorney General Kathleen Trever. Mr. Kline explained the omnibus rules and that IDFG, in line with the Governor's Red Tape Reduction Act, removed obsolete and outdated sections of the rules. He stated IDFG also received input from two deputy attorney generals. He reported that IDFG consolidated rules and chapters, improved clarity, and eliminated restrictions. He stated it was his belief that through these actions IDFG rules are lighter, better organized, and easier to navigate. He reassured the Committee that IDFG's edits did not change the meaning of the rules. He explained that no public comment was received by IDFG and that at the one public hearing held, IDFG received testimony from an organization in support of this docket and it's corresponding fee docket.

MOTION: Senator Patrick moved to approve Docket No. 13-0000-1900. Senator Stennett

seconded the motion. The motion carried by voice vote.

**DOCKET NO.** Department of Fish and Game rules governing the taking of big game animals,

**13-0108-1903** page 126.

Mr. Kline presented this docket and advised that a notice of negotiated rulemaking had been published in the June 5, 2019 administrative bulletin. IDFG received comments from the public via 160 responses from online submissions, with no interest in negotiated rulemaking; the only comments received were regarding capped zone hunt tags. He explained that capped zone hunts differ from controlled hunts because tag sales occur on a first-come, first-serve basis rather than a random draw. He stated that if this rule is approved, IDFG may establish a waiting period of five days whereby an applicant for a controlled hunt will have to wait before purchasing a capped zone tag.

**DISCUSSION:** Senators Patrick and Guthrie and Mr. Kline discussed negotiated rulemaking

comments received from the public, and how the comments were mixed-close to

50/50 for and against the subject of limited capped zone hunt tags.

MOTION: Senator Jordan moved to approve Docket No. 13-0108-1903. Senator Bair

seconded the motion.

**DISCUSSION:** Senator Bair asked several questions and Mr. Kline deferred to IDFG Director Ed

Schriever. **Mr. Schriever** discussed elk tags, tag caps, and favorable hunting zones. He discussed that the IDFG needed a different model to manage the sale of

these tags.

**Senator Johnson** asked if Chairman Jerry Meyers, Region 7 Fish and Game Commissioner, would stand for questions. He and **Mr. Meyers** discussed the fact that there existed more demand than supply, so IDFG implemented controlled

hunts.

**Senator Guthrie** and **Mr. Meyers** discussed the number of tags and that 55 to 60 percent of applicants that apply for limited cap zone hunts also apply for controlled

hunts.

**Senator Stennett** and **Mr. Meyers** discussed the elk population and the fact that the herds are thriving; overall, these hunts were not jeopardizing the herd. **Senator Stennett** noted that she was uncomfortable to let controlled hunts increase and not allow the herd to recover; however, she also stated that with hesitation she supports

this docket.

**Mr. Schriever** explained that the IDFG used the controlled hunts to manage the herd for the objective their commission had set. He pointed out that capped zone tags versus controlled hunt tags were just the mechanism to distribute the total number of tags. He elaborated that this docket addressed the people side of the rule and how many people wanted to hunt; the animal side being controlled elsewhere.

TESTIMONY:

**Benn Brocksome**, Idaho Sportsmen's Alliance (ISA), addressed the Committee and spoke in support of the dockets. He informed the Committee that ISA had worked diligently with IDFG on all the rules. He stated the IDFG procedures helped to manage supply and demand with the hunters. He informed the Committee there was a letter of support in their folders (see attachment 1). He reiterated that ISA supported this and all IDFG dockets on the day's agenda.

**VOICE VOTE:** 

The motion to approve **Docket No. 13-0108-1903** passed by **voice vote**, with **Senator Guthrie** requesting that he be recorded as voting nay.

DOCKET NO. 13-0108-1904

Department of Fish and Game rules governing the taking of big game animals, page 129.

**Mr. Kline** summarized this docket and advised that a notice of negotiated rulemaking had been published in the June 5, 2019 administrative bulletin. IDFG received 366 responses from online submissions, with no interest in negotiated rulemaking.

He explained that this docket addressed hunter congestion and hunt quantity, specifically the crowding caused by the growing number of non-residents interested in hunting. He stated that the IDFG Commission may limit the number of tags for non-resident hunters.

**DISCUSSION:** 

**Senator Bair** and **Mr. Schriever** discussed that there were 12,815 over-the-counter elk tags for non-residents, and on December 1 of each year residents could purchase any left over tags that were not sold, as a second resident tag. He further explained this rule intends to give the IDFG Commission a mechanism to limit the number of tags available to non-residents, distributing tags across the state by zone or big game unit.

MOTION:

Senator Bair moved to approve Docket No. 13-0108-1904. Vice Chairman Brackett seconded the motion. The motion carried by voice vote.

DOCKET NO. 13-0109-1902

Department of Fish and Game rules governing the taking of game birds, page 132.

**Mr. Kline** explained this docket governs the taking of game birds in the state and IDFG published in the June 5 bulletin the notice of negotiated rulemaking. He elaborated that they received 101 responses via online submission. He commented that this docket had no impact on the General Fund. He followed up explaining this rule came from hunters supporting new hunters, eight and nine years of age, to participate in several classification of hunts for turkey for which they are not currently eligible. He informed the Committee that this rule included turkey hunts as well as the flexibility to add turkey and stock pheasants to the passport program for youth hunters.

**DISCUSSION:** 

**Senators Stennett** and **Guthrie** and **Mr. Kline** discussed the logistics of stocking farmed pheasants, and that increasing the number of birds IDFG stocked would be on an experimental basis. **Mr. Kline** discussed the program and its cost, and expounded that even though this program operated at a loss and was down to having only one vendor produce the pheasants, IDFG still wanted to expand the pheasant stocking program and has asked for an increased budget to do so.

MOTION:

Senator Jordan moved to approve Docket No. 13-0109-1902. Vice Chairman Brackett seconded the motion. The motion carried by voice vote.

DOCKET NO. 13-0110-1901 Department of Fish and Game rules governing the importation, possession, release, sale, or salvage of wildlife, page 137.

**Mr. Kline** explained this docket relates to restrictions on hunting techniques and that the notice of rulemaking was published in the June 5, 2019 bulletin. He explained they received 101 comments through online posting and no commenters expressed interest in negotiated rulemaking. He clarified that this docket had no impact on the General Fund.

**Mr. Kline** elaborated that the IDFG Commission has a priority to provide the IDFG with the tools needed to minimize the risk of introducing chronic wasting disease (CWD) in Idaho. He explained that this rule would give IDFG authority to not issue any permits for the import of any live cervidae into Idaho not regulated as a domestic cervidae by the Idaho Department of Agriculture, including mule deer, white-tailed deer, and wild-origin elk. He further explained that the IDFG Commission's priority included restrictions on importing carcasses or other parts of game harvested in other states or Canadian Provinces with CWD, as well as restrictions on the use of natural urine as a scent, and the public feeding of deer and elk in CWD management zones.

**DISCUSSION:** 

**Senator Bair** discussed with **Mr. Kline** how this rule would affect domestic animals. **Mr. Kline** assured the Committee that this rule did not include domestic animals, and he read the definition of wildlife, explaining that IDFG only manages wildlife. **Mr. Kline** expanded on the fact that this rule does not impact the import of domestic cervid.

MOTION:

Senator Mortimer moved to approve Docket No. 13-0110-1901. Senator Bair seconded the motion. The motion carried by voice vote.

DOCKET NO. 13-0117-1901

Department of Fish and Game rules governing the use of bait and trapping for taking big game animals, page 140.

**Mr. Kline** introduced this docket and stated the notice of intent was published in the June 5, 2019 bulletin; IDFG received 311 submissions via online submission. He stated that one organization asked for negotiated rulemaking and that component was held until a future date. He assured the Committee that this rule had no impact on the General Fund.

**Mr. Kline** explained that the trapping community was worried about wolf trapping effectiveness. He informed the Committee that ground set class snares are inconsistent and this docket would reform trapping requirements for wolves to increase their effectiveness. He clarified that this rule removes the current requirement for the use of a diverter device on wolf ground set snares.

**DISCUSSION:** 

In response to a question from Senator Bair, **Toby Boudreau**, Chief of Wildlife, IDFG, explained what a diverter is and how it works to protect animals larger than a wolf from the snare. He further explained that diverters are not as successful in Idaho as in other states, and removing them will make wolf trapping easier.

**Senator Stennett** queried if the rule proposed to stop using breakaway devices, or if they are still required to protect unintended wildlife trapped in snares. **Mr. Boudreau** explained that if other animals are unintentionally trapped they are required to be reported IDFG. He also discussed that the diverter requirement can be added back in if necessary, if it is approved to remove them at this time.

**TESTIMONY:** 

**Justin Webb**, Executive Director, Foundation for Wildlife Management Inc., testified in favor of IDFG's wanting to remove the diverter requirement. He explained that diverters cause snare failures due to our weather conditions, mainly snow. He then displayed a current regulation snare, with diverters attached, to the Committee, as well as what the snare would look like with the new requirements. He discussed that Idaho's wetter snow stuck to the diverter wire thereby weighing them down and making them ineffective. He followed up that without the diverters, the success rate of snaring wolves will increase.

**MOTION:** 

**Senator Bair** moved to approve **Docket No. 13-0117-1901**. **Senator Mortimer** seconded the motion. The motion carried by **voice vote**, with **Senators Stennett** and **Jordan** requesting that they be recorded as voting nay.

DOCKET NO. 13-0000-1900F Department of Fish and Game omnibus pending fee rules, under IDAPA 13, page 4.

**Mr. Kline** presented this omnibus reauthorization of existing fee rules for IDFG. He confirmed that each rule had been previously reviewed and approved by the Legislature. He specified that examples of fees in the major chapter sections include fees charged for hunter, archery, and trapper education programs in the state, processing fees for issuing license refunds to non-residents, bonding fees for large commercial wildlife facilities, and for vendors. He emphasized that no fee amounts were changed, and reminded the Committee that the IDFG fees for licenses, permits, and tags are in statute and not repeated in the rule.

MOTION:

Senator Patrick moved to approve Docket No. 13-0000-1900F. Senator Jordan seconded the motion. The motion carried by voice vote.

### RS 27202

Relating to Fish and Game, to provide for game tags for swan, to revise provisions regarding upland game bird permits, to revise hunter orange requirements, and to make technical corrections.

Mr. Kline explained that constituents asked the IDFG Commission to develop a season to hunt swans since currently there is no season. They also requested to expand the stocked pheasant program to include additional properties to the nine areas where pheasants are currently stocked. This Routing Slip (RS) provides the IDFG Commission flexibility to grant Upland Game Permits (UGP) to hunt farm-raised pheasant on additional properties.

He further detailed that this RS extends the current requirement to wear visible hunting orange to be seen at least 36 inches above the waist anywhere the IDFG Commission requires a UGP. He expounded that UGP language is for wildlife management areas and this RS would remove specific references to wildlife management areas when used in conjunction with Upland Game Bird Permits.

### DISCUSSION:

Senator Guthrie and Mr. Kline discussed the use of the specific language of tundra swan and swan within the RS. Mr. Kline elaborated that this RS was for an experimental three-year season to hunt tundra swans, and the IDFG made the language broad for rules definition. He spelled out that there currently are two species of swan in Idaho, and this RS addressed a season specifically for tundra swan.

MOTION:

Vice Chairman Brackett moved to send RS 27202 to print. Senator Stennett seconded the motion. The motion carried by **voice vote**.

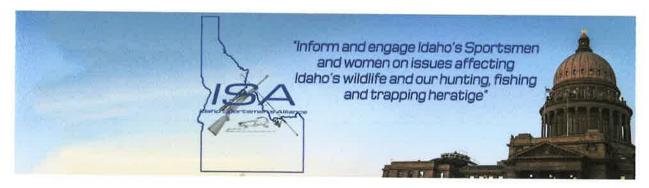
**MINUTES** APPROVAL: Vice Chairman Brackett moved to approve the Minutes of January 13, 2020. **Senator Mortimer** seconded the motion. The motion carried by **voice vote**.

**ADJOURNED:** 

There being no further business at this time, Chairman Heider adjourned the

meeting at 3:01 p.m.

Senator Heider	Erin Miller
Chair	Secretary



Jan. 20, 2020

Sen. Lee Heider, Chairman Senate Resources and Environment Committee

Idaho State Capitol

700 W. Jefferson St.

Boise, Idaho 83702

RE: Idaho Department of Fish and Game rules

Chairman Heider and committee members,

Thank you for the opportunity for the Idaho Sportsmen's Alliance (ISA) to comment on the Idaho Department of Fish and Game's rule changes.

The ISA is a collection of Idaho sporting groups working together to protect and improve Idaho's wildlife heritage of hunting, fishing, and trapping, for present and future generations by seeking consensus on issues important to sportsmen, providing education to the Idaho sportsmen's organizations, the Idaho Legislature and other governmental entities on sportsmen's issues and being an information resource to the Legislature and other governmental entities on issues, legislation and rules affecting Idaho's wildlife heritage of hunting, fishing and trapping.

ISA supports the Idaho Department's efforts to work with your committee and the Legislature to successfully rewrite the rules in such a way to benefit the department and sportsmen. We support the rules as written and ask for the committees' continued support of sportsmen by approving the rules dockets, including the omnibus.

Thank you for your time and the opportunity to comment on this important issue.

**Rob Thornberry** 

President, ISA

# AMENDED AGENDA #1 SENATE RESOURCES & ENVIRONMENT COMMITTEE 1:30 P.M.

### Room WW55 Wednesday, January 22, 2020

SUBJECT	DESCRIPTION	PRESENTER
MINUTES APPROVAL:	Committee approval for Minutes of the January 15, 2020 meeting.	Senator Mortimer
RS27413	Relating to wolves to provide for chronic depredation zones, wolf-free zones, and declaring an emergency.	Vice Chairman Brackett
GUBERNATORIAL APPOINTMENT:	The Gubernatorial Appointment of Bradley Melton to the Idaho Fish and Game Commission.	Bradley Melton
GUBERNATORIAL APPOINTMENT:	The Gubernatorial Re-Appointment of Derick Attebury to the Idaho Fish and Game Commission.	Derick Attebury
DOCKET NO. 25-0101-1900F:	Idaho Outfitter and Guides Licensing Board omnibus pending fee rule under IDAPA 25, page 233.	Lori Thomason, Executive Director, Outfitters and Guides Licensing Board
DOCKET NO. 20-0000-1900:	Department of Lands omnibus pending rule under IDAPA 20, page 144.	David Groeschl, Deputy Director, Idaho Department of Lands
DOCKET NO. 20-0000-1900F:	Department of Lands omnibus pending fee rule under IDAPA 20, page 19.	David Groeschl
DOCKET NO. 20-0302-1902:	Department of Lands pending temporary rule under IDAPA 20, Rules Governing Mined Land Reclamation, page 3.	Mick Thomas, Minerals, Oil and Gas Division Administrator, Idaho Department of Lands
DOCKET NO. 20-0303-1901:	Department of Lands pending rule under IDAPA 20, Rules Governing Administration of the Reclamation Fund, page 204.	Mick Thomas
DOCKET NO. 20-0304-1901:	Department of Lands pending fee rule under IDAPA 20, Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho, page 226.	Mick Thomas

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider Sen Patrick
Vice Chairman Brackett Sen Guthrie
Sen Bair Sen Stennett
Sen Johnson Sen Jordan

Sen Jordan Email: sre

Sen Mortimer

COMMITTEE SECRETARY

Erin Miller Room: WW37 Phone: 332-1323

Email: sres@senate.idaho.gov

### **MINUTES**

### SENATE RESOURCES & ENVIRONMENT COMMITTEE

**DATE:** Wednesday, January 22, 2020

**TIME:** 1:30 P.M.

PLACE: Room WW55

**MEMBERS** Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer,

**PRESENT:** Patrick, Guthrie, Stennett, and Jordan

ABSENT/ None

**EXCUSED**:

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with

the minutes in the committee's office until the end of the session and will then be

located on file with the minutes in the Legislative Services Library.

**CONVENED:** Chairman Heider called the meeting of the Senate Resources and Environment

Committee (Committee) to order at 1:30 p.m.

MINUTES Senator Mortimer moved to approve the Minutes of January 15, 2020. Senator

**APPROVAL:** Bair seconded the motion. The motion carried by voice vote.

RS 27413 Relating to wolves to provide for chronic depredation zones, wolf-free zones, and

declaring an emergency.

**Vice Chairman Brackett** addressed the Committee and advised that this Routing Slip (RS) will assist the wolf population and management for depredation purposes where it has occurred. He explained that this RS would cover a wolf taken by any hunter provided they have a wolf tag. He specified that depredation remains at a high level and ranchers' livelihood is being threatened by wolves.

MOTION: Senator Bair moved to send RS 27413 to print. Senator Mortimer seconded

the motion. The motion passed by voice vote, with Senators Stennett and

Jordan requesting that they be recorded as voting nay.

GUBERNATORIAI APPOINTMENT:

GUBERNATORIAL The Gubernatorial Appointment of Bradley Melton to the Idaho Fish and Game

Commission.

**Mr. Melton** stated that he lives in Lewiston, is an avid hunter and fisherman, and has a passion for all things fish and wildlife, flora and fauna. He explained that he moved to Idaho 15 years ago and thinks Idaho has amazing resources. His

career is as a financial advisor.

**DISCUSSION:** Senator Bair asked questions regarding Mr. Melton's thoughts about the top

issues before the Idaho Fish and Game (IDFG) Commission. **Mr. Melton** opined the most urgent issues are with fish population and issues surrounding fish; wolf management; and non-resident tags and how the IDFG Commission manages

them.

Chairman Heider announced that a vote on this appointment will take place at

the next Committee meeting.

### APPOINTMENT:

**GUBERNATORIAL** The Gubernatorial Re-Appointment of Derick Attebury to the Idaho Fish and Game Commission.

> Mr. Attebury stated that it was a privilege to serve the state in the past and he wants to keep Idaho great. He explained that he has enjoyed working with constituent hunters, trappers, and anglers. He commented that he would love to serve on the IDFG Commission for another four years.

### DISCUSSION:

In response to questions from the Committee, Mr. Attebury explained some of the challenges and solutions he thought the IDFG Commission would face over the next four years. He discussed issues relating to hunting congestion, budget, non-resident tags, predator management, and other problematic areas that need to be addressed.

Chairman Heider announced that a vote on the appointment will take place at the next Committee meeting.

### DOCKET NO. 25-0101-1900F:

Idaho Outfitter and Guides Licensing Board omnibus pending fee rule under IDAPA 25, page 233.

Lori Thomason, Executive Director, Outfitters and Guides Licensing Board (OGLB), introduced herself and advised the Committee that this docket was an existing rule which had been previously reviewed and approved. She explained the OGLB's approach was in line with the Red Tape Reduction Act. She highlighted that OGLB:

- eliminated the restrictive number of times that an applicant can take the examination and reduced the reexamination waiting period;
- allows licensees to provide electronic proof of licensure;
- eliminated the fee to be on a waiting list for licensure;
- eliminated the requirement that a guide be clean and well mannered; and
- eliminated the requirement that an outfitter applicant, who has not been licensed in the past five years, provide personal and bank references.

She set forth that the OGLB was doing additional negotiated rulemaking and gathering further information from federal and state agencies with relevant information to consider.

MOTION:

Senator Bair moved to approve Docket No. 25-0101-1900F. Senator Stennett seconded the motion. The motion carried by voice vote.

DISCUSSION:

Chairman Heider explained that he was going to move Docket Nos. 20-0303-1901 and 20-0304-1901 up on the agenda due to language in those rules.

DOCKET NO. 20-0303-1901: Department of Lands pending rule under IDAPA 20, Rules Governing Administration of the Reclamation Fund, page 204.

Mick Thomas, Minerals, Oil and Gas Division Administrator, Idaho Department of Lands (IDL), introduced himself and explained IDL's authority and reasons for entering negotiated rulemaking. He spelled out that Idaho's Reclamation Fund (RF) is a type of state bond pool, created in 2002, to provide an alternative form of performance bond or financial assurance to complete reclamation activities. He stated that since the RF had been in existence for 15 years, the IDL wanted to address needed changes to comply with the Red Tape Reduction Act, amendments to the Mined Land Reclamation Act, account for inflation, and address feedback received by IDL.

Mr. Thomas noted that negotiated rulemaking took place and stakeholder input was generally favorable.

MOTION: Senator Jordan moved to approve Docket No. 20-0303-1901. Senator

**Mortimer** seconded the motion. The motion passed by **voice vote**.

DOCKET NO. 20-0304-1901:

Department of Lands pending fee rule under IDAPA 20, Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho, page

226.

Mr. Thomas spoke about the fee rule and IDL's authority and reasons for entering negotiated rulemaking. He explained that IDL regulates encroachments, such as docks and marinas, on navigable lakes and the funding for that management comes from fees and rent charged by IDL for the use of these lands. He specified that no General Fund dollars are used to manage these public lands. He expounded that upon this review process, IDL found that the costs associated with the application fees for single-family docks, two-family docks, water intake lines, and permit assignments do not cover the actual costs to process these applications. He detailed the efforts taken during the negotiated rulemaking process and explained that public comments included no objection to proposed changes. He specified that the rule changes increase encroachment permit application fees for single-family docks, two-family docks, and water intake lines from \$300 to \$425; and the encroachment permit assignment fee from \$150 to \$300.

Senator Patrick inquired if and how notice of the increased fees would be given. Mr. Thomas explained that the rule change would primarily impact lakefront homeowners who are applying for new permits or wanting to assign existing permits and they would be directly notified.

MOTION: Senator Stennett moved to approve Docket No. 20-0304-1901. Senator Bair

seconded the motion. The motion carried by **voice vote**.

DOCKET NO. Department of Lands omnibus pending rule under IDAPA 20, page 144. 20-0000-1900:

> David Groeschl, Deputy Director, IDL, introduced himself and presented a history and description of the three rule chapters, detailing that each was an existing rule that had been previously reviewed and approved by the Legislature. He cited that IDL identified and eliminated sections that were outdated and unnecessary, including six pages from rules that were duplicative within the statute. He informed that IDL held two public hearings in August regarding the tree retention requirements along Class 1 fish-bearing streams, more commonly referred to as the "shade rule." He explained that the majority of comments were in favor of reauthorizing the rules without amendments. He concisely reported that the shade rule struck an important and appropriate economic, operational, and biological balance. He asserted that the rules presented today were without amendments. He referred to copies of letters from interested stakeholders that were in the Committee's packets (see attachment 1).

TESTIMONY: Jonathan Oppenheimer, External Relations Director for the Idaho Conservation

League (ICL), addressed the Committee and stated that he was pleased to support the IDL omnibus rules. He disclosed that ICL had been involved in the

negotiated rulemaking process.

MOTION: Senator Guthrie moved to approve Docket No. 20-0000-1900. Senator

**Stennett** seconded the motion. The motion carried by **voice vote**.

### DOCKET NO. 20-0000-1900F:

Department of Lands omnibus pending fee rule under IDAPA 20, page 19.

Mr. Groeschl discussed the reauthorization of this existing 16-chapter omnibus fee rule from their agency which had been previously reviewed and approved by the Legislature. He clarified that IDL reviewed the rules to identify and eliminate sections that were outdated and unnecessary; the largest clean-up was eliminating five pages from the Rules Governing Conservation of Oil and Natural Gas by allowing sections to expire that had been superseded by Idaho Code. He addressed that all edits made were minor and nonsubstantative. He described that IDL held three public hearing in August regarding dredge and placer mining operations; with the only comments received directed at other state and federal agencies due to a misunderstanding of the scope of the rules. He reassured the Committee that the only changes to these rules were related to Red Tape Reduction Act efforts.

**DISCUSSION:** 

**Senator Patrick** inquired regarding the specific fees and **Mr. Groeschl** reiterated there were no changes to fees in this specific omnibus package. IDL wanted to make sure if changes were to be made it would go through the negotiated rulemaking process.

**MOTION:** 

**Senator Bair** moved to approve **Docket No. 20-0000-1900F**. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 20-0302-1902:

Department of Lands pending temporary rule under IDAPA 20, Rules Governing Mined Land Reclamation, page 3.

**Mr. Thomas** discussed that this docket would extend the effective date of the emergency fee rule. He expounded that IDL is responsible for providing regulatory oversight of mining activities on state, federal, and private lands in Idaho. He detailed that during the 2019 regular session, the Legislature passed House Bill 141 which updated mining regulations created in the early 1970s. In March 2019, IDL promulgated the temporary rule and initiated negotiated rulemaking. He reported that many changes to the original draft rule were based on input from the rulemaking participants and detailed the changes:

- underground mines are now required to obtain reclamation plans for their surface impacts;
- IDL is now able to collect reasonable fees for reclamation plans and the plans are required to include post-closure activities;
- actual cost estimation of reclamation activities are now used to determine financial assurance:
- operators are given the flexibility needed for long-term post-closure activities through additional types of financial assurance; and
- IDL is now required to review every plan at least once every five years.

**Mr. Thomas** concluded that IDL believes this temporary rule can be used to implement the changes to the Idaho Mined Land Reclamation Act while further negotiations continue to develop a proposed rule. He asked that the Committee approve the extension of this temporary rule.

**DISCUSSION:** 

**Senators Bair** and **Patrick** and **Mr. Thomas** discussed IDL's reasons for extending the temporary rule. **Mr. Thomas** confirmed that negotiated rulemaking was not complete therefore IDL would like an extension and would resume meetings in April.

**Senator Guthrie** and **Mr. Thomas** discussed dock fees, the temporary rule collecting those fees, and public notice thereof. **Mr. Thomas** noted that IDL sent out 700 mailers to permit holders regarding notice of fee changes, updated their website, and provided notice to area offices regarding new fees being put into place.

**Senator Guthrie** asked about H 141's specific requirements regarding fees. **Mr. Thomas** confirmed that H 141 was not violated and there was no financial crisis to require how they submitted this pending rule. **Vice Chairman Brackett** and **Mr. Thomas** discussed IDL's emergency declaration and since compliance with H 141 needed to be complete by August 1, 2019, the emergency was declared and they requested the temporary rule to not accelerate the process.

**TESTIMONY:** 

**Ben Davenport**, Executive Vice President, Idaho Mining Association (IMA), spoke in support of the temporary rule and the changes made by August 1. He stated he was unaware if any of his members have paid the new fees but he had not heard any feedback on the fees collected. He reiterated that IMA supports the process and they were working together going forward.

DISCUSSION:

In response to Committee questions, **Eric Wilson**, Bureau Chief for IDL, informed that he was the one who conducted rulemaking for this particular rule docket. He clarified that IDL did not have application fees prior to this rule. He specified that because of H 141 and the changes that it made, it caused IDL a significant increase in expenses; some examples being that inspections that happened every 15 years now have to be every 5 years. He elaborated that the fiscal impact of H 141 would be nil if application fee revenue covered the increase in operating expenses.

MOTION:

**Senator Jordon** moved to approve **Docket No. 20-0302-1902**. **Senator Bair** seconded the motion. The motion carried by **voice vote**.

ADJOURNED:

There being no further business at this time, **Chairman Heider** adjourned the meeting at 2:59 p.m.

Senator Heider	Erin Miller
Chair	Secretary



Idaho Forest Owners Association P.O. Box 1257 Coeur d'Alene, ID 83816-1257 info@idahoforestowners.org www.idahoforestowners.org

January 10, 2020

Mr. David Groeschl State Forester Idaho Department of Lands 3284 W Industrial Loop Coeur d'Alene, ID 83815-6021

Dear Mr. Groeschl

I am writing today on behalf of the Board of Directors of the Idaho Forest Owners Association (IFOA) to document an agreement reached between the Idaho Department of Lands and IFOA regarding the Idaho Forest Practices Act Streamside Tree Retention Rule commonly referred to as the Shade Rule.

The Shade Rule was one of the agency administrative rules which was not reauthorized at the end of the 2019 Idaho Legislative session and, as a result, it is receiving negative pressure from landowner organizations such as the Idaho Farm Bureau. While some organizations would like to do away with this policy altogether, this is not an approach that IFOA supports. Forest landowners recognize that the Shade Rule is important in protecting water quality. Shade over streams protects fish habitat as well as reducing runoff, and IFOA supports some version of shade protection as part of the Forest Practices Act.

At a meeting on Tuesday, January 7, 2020, between IFOA representatives Fred Omodt, J. Frank Morado, G. Kirk David, and Madeline David, and Idaho Department of Lands officials, the following two part agreement was reached.

- (1) IFOA supports the reauthorization of the existing Idaho Forest Practices Act Streamside Tree Retention or Shade Rule.
- (2) The Idaho Department of Lands commits to initiating a negotiated rule-making process in the spring of 2020 with the goal of rewriting the existing Shade Rule to make the language of the Rule more understandable and more easily implemented as well as providing for greater flexibility in dealing with individual landowner situations. The Idaho Forest Owners Association will have an active role in redefining a new, more equitable Shade Rule as part of this process.

It is our goal to represent the best interests of our membership in this process of setting rules that govern best forest practices in the state of Idaho, but we are also committed to protecting Idaho's forest resources and water quality. We look forward to the opportunity to work with the Idaho Department of Lands to create a new Shade Rule which will allow us to meet both of these goals.

Sincerely,

Marrion E. Newsam Banks Executive Vice President

M. E. Jewsam Banks

208-755-8168

DIRECTOR'S OFFICE 300 N 6th Street Suite 103 PO Box 83720 Boise ID 83720-0050 Phone (208) 334-0200 Fax (208) 334-5342



STATE BOARD OF LAND COMMISSIONERS

Brad Little, Governor Lawerence E. Denney, Secretary of State Lawrence G. Wasden, Attorney General Brandon D Woolf, State Controller Sherri Ybarra, Sup't of Public Instruction

via e-mail: info@idahoforestowners.org

January 13, 2020

Idaho Forest Owners Association (IFOA) PO Box 1257 Coeur D Alene, ID 83816-1257

RE: FPA Shade Rule

Dear IFOA Members:

On Tuesday, January 7, 2020, several IFOA Board members met with IDL Staff to discuss the Idaho Forest Practices Act (FPA) Shade Rule and the results of the Shade Effectiveness Study. During the January 7<sup>th</sup> meeting, IFOA Board members expressed a desire to simplify the current Shade Rule to make it easier to understand and implement.

The current Shade Rule was adopted and approved in 2014 by the Idaho Legislature. This rule was developed through an extensive negotiated rulemaking process with significant input and involvement by many stakeholders, including small private forest landowners who belong to your organization. Many of those involved in this multi-year process felt that the new Shade Rule struck an important and appropriate economic, operational, and biological balance.

After passage of the Shade Rule, Idaho Department of Lands (IDL) worked with the Idaho Department of Environmental Quality (DEQ) and the University of Idaho (UI) to implement a Shade Effectiveness Study to compare the modeled and measured (actual) changes in shade when applying the two Shade Rule options across different forest types. The preliminary results of this shade study were presented by UI and DEQ at the December 5, 2019 Forest Practices Advisory Committee (FPAC) meeting.

The Forest Practices Advisory Committee (FPAC) will meet again on January 30, 2020 to begin reviewing rules to bring forward to the April 21, 2020 Land Board for approval to enter the rules promulgation process. As we discussed during our meeting, one of the goals during the 2020 negotiated rulemaking process will be to simplify the existing Shade Rule. IDL will work with FPAC and interested stakeholders over the next three months to draft language that simplifies the rule while still maintaining the modeled and validated basis for the rule.

The rules promulgation process will provide opportunity for all interests to participate in negotiating a final proposed rule that simplifies the Shade Rule while maintaining the rule's scientific basis.

IFOA Board Members – FPA Shade Rule January 13, 2020 Page 2

Thank for your support and participation as we work through this process. I appreciate the open dialogue and encourage your continued engagement.

Sincerely,

Craig Foss

Division Administrator

Cc: Dustin Miller, Director

David Groeschl, Deputy Director

DEPT. OF LANDS

JAN 1 5 2020

BOISE, IDAHO



January 15, 2020

The Honorable Marc Gibbs
Chairman
House Resources & Commerce Committee
Idaho State House of Representatives
Idaho Statehouse (EW40)

The Honorable Lee Heider
Chairman
Senate Resources & Environment Committee
Idaho State House of Senate
Idaho Statehouse (WW55)

RE: Idaho Department of Lands Streamside Tree Retention Rule ("Shade Rule") pending before your Committee

Members of the House Resources & Commerce Senate Resources & Environment Committees:

PotlatchDeltic owns approximately 628,000 acres of timberlands and has two manufacturing facilities in North Idaho, which combined contribute over 410 jobs. We write concerning the Idaho Department of Lands' (IDL) Streamside Tree Retention Rule, or "Shade Rule", that is currently pending before the House Resources & Commerce Committee.

PotlatchDeltic strongly opposes the repeal of the existing Shade Rule and has significant concerns with potential consequences of a repeal of the rule and the important benefits and protections it provides. We serve on the Forest Practices Advisory Committee to the board (FPAC) and have been involved in the rule's development during the negotiated rulemaking process and the implementation of the Shade Rule since its approval by the Idaho Legislature in 2014. We continue to be part of the FPAC and actively work to recommend changes to FPA rules. We feel strongly that the preferred alternative to address concerns is by rule modification through the knowledgeable and robust stakeholder FPAC forum.

It is our experience that we have been able to more efficiently and effectively manage forestlands under the current Shade Rule than under the past streamside tree retention rule. Just as Important, we support the need for the rule as a highly credible, research-based method to ensure Idaho's compliance with the federal Clean Water Act statutes. In short, Idaho's Shade Rule provides important protections for forest landowners and fish. This rule is essential to maintaining the productivity of Idaho's soil and water.

Repeal of this important rule would result in significant policy, litigation, and water quality consequences.

Thank you for your consideration.

Sincerely,

Anna E. Torma

Vice President Public Affairs

Subject: Please Support the Idaho Forest Practices Act "Shade Rule"

January 16, 2020

To: Marc Gibbs, Chairman, & Members of the House Resources & Commerce Committee,

Lee Heider, Chairman & Members of the Senate Resources & Environment Committee

I am a non-industrial forestland owner in Boundary County, and my family has owned our 122 acres for over 33 years. We are good stewards of the land and manage our forests for timber production. Our forestland has been a certified Tree Farm since 1988 and it has several streams running through it.

I have been a member of the Idaho Forest Owners Association (IFOA) for over 30 years and served on the Board of Directors for IFOA for 12 years (1997 – 2012). I am a graduate professional forester and have worked for 45 years in the woods of north Idaho and northwestern Montana. I have always worked and, still work today, on <u>private</u> forestlands.

I am a committee member on the Idaho Forest Practices Advisory Committee (FPAC) representing the "Small Woodland Owners". I have served on FPAC now for 13 years. This committee oversees the Idaho Forest Practices Act and is actively involved with keeping these rules current and practical. One of FPAC's goals is to not become like Washington or California — where forest regulations are burdensome, expensive, complicated and impractical. FPAC keeps this in mind with everything we do. All FPAC meetings are open to the public and we constantly take public comment on all forestry issues.

We have always had a Shade Rule in Idaho along Class 1 streams (since 1974). This rule protects water quality and provides the private landowner several options as to how to manage their streamside forest. The last revision was in 2014 and it took 10 years of discussion, research, debate, and compromise to get it done. The 2014 revision is better, but not perfect. Streams in north Idaho are extremely variable due to forest types, elevation, aspect, stream orientation, existing streamside vegetation, hydrologic features, topography, etc. With this difficult revision, we did our best possible in keeping the rule pertinent and applicable to all conditions. We will continue to improve the Shade Rule over time as better science becomes available.

As a practicing professional forester, I know that the current shade rule is a good balance. It allows for forest management while providing adequate protection to Class I streams. Please do not repeal the Shade Rule. To do so will cause havoc in our forests and courts. The proper way to make change, if needed, is to allow FPAC to do its work as it has for the past 40+ years.

Best regards,

Kennon McClintock

65 McClintock Road

Moyie Springs, Idaho 83845

Kennya McClintoch

208-267-7064



687 W Canfield Ave Ste 100

Coeur d'Alene, ID 83815

IDFG.com

208.255,3200

January 17, 2020

The Honorable Marc Gibbs
Chairman
House Resources & Commerce Committee
Idaho State House of Representatives
Idaho Statehouse (EW40)

The Honorable Lee Heider
Chairman
Senate Resources & Environment Committee
Idaho State House of Senate
Idaho Statehouse (WW55)

RE: Idaho Department of Lands Streamside Tree Retention Rule ("Shade Rule")

Dear Members of the House Resources & Commerce Senate Resources & Environment Committees:

Idaho Forest Group (IFG) operates 6 wood manufacturing facilities in Idaho and manages 67,000 acres of forestlands. IFG contributes roughly 1,000 jobs and employs nearly 2,000 logging and hauling contractors in northern Idaho. We produce over a billion board feet of lumber a year putting IFG in the top ten softwood producers in North America. We work with a broad spectrum of forest landowners including the State, the federal government, and a wide variety of private owners. We are writing in support of the Idaho Department of Lands' (IDL) Streamside Tree Retention Rule, or "Shade Rule", that is currently pending before the House Resources & Commerce Committee.

Our company strongly opposes the repeal of the existing Shade Rule. We have significant concerns with consequences that may manifest from repealing the rule and the Important protections It provides. We were involved in the development of the Shade Rule during the negotiated rulemaking process and have been implementing it on private and public forestland since its approval by the Idaho Legislature in 2014. We have found the current Shade Rule to be workable and provides several options to landowners to ensure compliance.

Just as important, we support the need for the rule as a highly credible, research-based method to ensure Idaho's compliance with the federal Clean Water Act statutes. In short, Idaho's Shade Rule provides important protections for forest landowners and fish. This rule is essential to maintaining the productivity of Idaho's soil and water which will support our industry long into the future. Reducing or eliminating this rule may also jeopardize the reputation of the forest products industry, which is already highly scrutinized.

IFG recommends that the Idaho Legislature approve the current rule that was previously adopted by the Legislature in 2014. We also advise that IDL move to rule-making in 2020 to address ongoing concerns. Repeal of this important rule could result in significant policy, litigation, and water quality consequences. Thank you for your consideration on this very important issue.

Tom Schultz, V.P. Resources & Governmental Affairs







January 20, 2020

Members of the Senate Resources & Environment Committee: 700 W Jefferson Street Boise, ID 83702

Subject: Idaho Power, Rocky Mountain Power and the Idaho Consumer-Owned Utilities Association Oppose Removal of "Shade Rule"

Members of the Senate Resources & Environment Committee:

Thank you for the opportunity to express our concerns about the proposed removal of the Forest Practices Act Streamside Tree Retention Rule or "Shade Rule" from Idaho rules. We are concerned about this proposed elimination of the "Shade Rule" as it could have significant detrimental financial and environmental effects on Idaho investor owned and consumer-owned utility rate-payers who are citizens of Idaho.

As an example, recent regulatory requirements associated with the relicensing Idaho Power Company's (IPC) Hells Canyon Complex require IPC to enhance and protect miles of stream side vegetation as water temperature mitigation. Most of the water temperature conditions that IPC is required to mitigate are the result of warm water flowing into its reservoirs. Actions that further degrade streamside vegetation conditions in the Snake River Basin would serve to increase the cost and regulatory risks to IPC and its customers. Even very small changes in temperature could have a significant effect. IPC is currently required to spend hundreds of millions of dollars to mitigate a temperature issue that averages only a couple of degrees for a 2-week period out of the entire year. Very small changes in temperature can have substantial financial impacts to rate-payers. In fact, mitigating this very small temperature standards exceedance is the most costly water quality mitigation required of IPC as part of the Hells Canyon Complex relicensing.

In addition to temperature mitigation that investor owned utilities are undergoing and may undergo in future relicensing efforts across the state, elimination of the shade rule may also place additional burden on consumer-owned utilities. Consumer-owned utilities partner with Bonneville Power Administration to invest in salmon mitigation. These efforts may be impacted by increased water temperatures due to reduced presence of streamside shade.

In summary, Idaho Power, Rocky Mountain Power and the Idaho Consumer-Owned Utilities Association do not support the proposed elimination of to the "Shade Rule" from Idaho rules as it would result in substantially more risk to Idaho's rate-payers.

We appreciate your public service to the State of Idaho and your consideration of the implications of removing the Forest Practices Act Streamside Tree Retention Rule from Idaho rules.

# AMENDED AGENDA #1 SENATE RESOURCES & ENVIRONMENT COMMITTEE 1:30 P.M.

### Room WW55 Monday, January 27, 2020

SUBJECT	DESCRIPTION	PRESENTER
VOTE ON GUBERNATORIAL APPOINTMENT:	Committee Vote on Re-Appointment of Derick Attebury to the Idaho Fish and Game Commission.	
<u>S 1237</u>	Relating to Fish & Game, to provide for game tags for swan, to revise provisions regarding upland game bird permits, to revise hunter orange requirements, and to make technical corrections.	Paul Kline, Deputy Director Programs/Policy, Idaho Fish & Game

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS COMMITTEE SECRETARY

Chairman HeiderSen PatrickErin MillerVice Chairman BrackettSen GuthrieRoom: WW37Sen BairSen StennettPhone: 332-1323

Sen Johnson Sen Jordan Email: sres@senate.idaho.gov

Sen Mortimer

#### MINUTES

#### SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, January 27, 2020

TIME: 1:30 P.M.

PLACE: Room WW55

**MEMBERS** Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer,

PRESENT: Patrick, Guthrie, and Jordan

Senator Stennett ABSENT/

**EXCUSED:** 

NOTE: The sign-in sheet, testimonies and other related materials will be retained with

the minutes in the committee's office until the end of the session and will then be

located on file with the minutes in the Legislative Services Library.

Chairman Heider called the meeting of the Senate Resources and Environment CONVENED:

Committee (Committee) to order at 1:31 p.m.

APPOINTMENT:

GUBERNATORIAL Senator Mortimer moved to send the Gubernatorial appointment of Derick Attebury to the Idaho Fish and Game Commission to the floor with recommendation that he be confirmed by the Senate. Vice Chairman Brackett

seconded the motion. The motion carried by voice vote.

S 1237 Relating to Fish and Game, to provide for game tags for swan, to revise provisions

regarding upland game bird permits, to revise hunter orange requirements, and to

make technical corrections.

Paul Kline, Deputy Director Programs/Policy, Idaho Department of Fish and Game (IDFG), introduced himself and other IDFG staff present: Director Ed Schriever, Michael Pearson, and Toby Boudreau. He stated that this bill revises Idaho Code §§ 36-409, 36-416, and 36-1401 to:

- define resident and non-resident game tags for swan;
- establish sport tag fees for swan;
- provide authority to the Fish and Game Commission (FGC) to require the purchase of an Upland Game Bird Permit (UGBP) to hunt farm-raised pheasants stocked on properties that are in addition to state owned wildlife management areas; and
- to define that it is an infraction to fail to wear 36 square inches of visible hunter orange above the waist when hunting in locations where the FGC requires an UGBP.

Mr. Kline informed the Committee this proposed legislation addresses requests brought to the FGC by sportsmen and women to expand hunting opportunities in Idaho. He reported that the FGC is proposing a three-year experimental swan hunting season in the Panhandle Region of northern Idaho to commence in October 2020. This experimental season would make 50 tags available on a first-come, first-serve basis.

Mr. Kline explained how flyway councils were developed in 1952 to serve as a forum for increased cooperation in the management of migratory game birds between the states and the U.S. Fish and Wildlife Service. He expounded that in August 2019, the Pacific Flyway Council recommended a change to the swan season framework to allow a swan season in northern Idaho; this change was

approved by the U.S. Fish and Wildlife Service in October 2019. He specified that Montana, Utah, and Nevada have swan season frameworks already, providing statistics for each state and their respective swan seasons. He also stated that if this bill is approved and implemented in Idaho, swan hunter activity and harvest would be monitored via questionnaire, and mandatory harvest reporting to be submitted within 72 hours of harvest.

He commented that there is no fiscal impact to the General Fund.

**Mr. Kline** discussed the Upland Game Bird Permit (UGBP) and that currently IDFG stocks nine Wildlife Management Areas (WMA) with a total of approximately 21,000 farm-raised pheasants annually. He went on to explain that hunters have expressed interest in expanding this program beyond these nine WMAs, including additional IDFG WMAs, Bureau of Reclamation property, Idaho Department of Lands property, other IDFG property, and Access Yes! properties. He assured that to fund expansion, the IDFG's fiscal year 2021 budget includes a line item request for this purpose and therefore would have no impact on the General Fund. He assured that this bill does not revise the existing fee for an UGBP.

**DISCUSSION:** 

**Senators Patrick** and **Bair** discussed with **Mr. Kline** the popularity of swan hunting in the other states, the proposed hunt success rate in Idaho, and how hunters would be able to tell the difference between different types of swans. **Toby Boudreau**, Chief of Wildlife, IDFG participated in the discussion, and also stated that there would be no penalty to a hunter who mistakenly shoots the wrong bird during the experimental time period.

**Senator Jordan** and **Mr. Kline** discussed the specific deletions from the bill on page 2 regarding private property access and the funding to pay for doubling the current number of birds IDFG stocks.

**Senator Guthrie** and **Mr. Kline** discussed the species of swans in Idaho, penalties for killing a trumpeter swan, incidental harvest of tundra swans, what programs are being compromised to pay for this program, the Access Yes! program and paying land owners, and authority to manage migratory birds.

**Mr. Kline** pointed out that the FGC has the authority to stock farm-raised pheasants; this bill is requesting the ability to sell a permit to offset the cost of raising the additional birds. He detailed that currently IDFG can only sell permits for birds on WMAs and this bill covers the program as it expands to other areas, giving IDFG authority to sell permits to help defray the additional costs.

**Ed Schriever**, Director, IDFG, addressed the Committee to inform that IDFG obtains permits from the U.S. Fish and Wildlife Service, which manages migratory birds. This permit provides that a hunter can take a swan. He stated that IDFG wanted to manage the impact and harvest of trumpeter swans. He clarified points made by Mr. Kline.

**MOTION:** 

**Vice Chairman Brackett** moved to send **S 1237** to the floor with a **do pass** recommendation. **Senator Bair** seconded the motion. The motion carried by **voice vote**, with **Senators Guthrie** and **Jordan** requesting that they be recorded as voting nay. Vice Chairman Brackett will carry the bill on the floor.

**ADJOURNED:** 

There being no further business at this time, **Chairman Heider** adjourned the meeting at 2:00 p.m.

Senator Heider	Erin Miller
Chair	Secretary

# AMENDED AGENDA #1 SENATE RESOURCES & ENVIRONMENT COMMITTEE 1:30 P.M.

#### Room WW55 Wednesday, January 29, 2020

SUBJECT	DESCRIPTION	PRESENTER
DOCKET NO. 37-0000-1900	Department of Water Resources, Water Resource Board, omnibus pending rule, under IDAPA 37, page 252.	Mathew Weaver, Deputy Director, Idaho Department of Water Resources
DOCKET NO. 37-0000-1900F	Department of Water Resources, Water Resource Board, omnibus pending fee rule, under IDAPA 37, page 308.	Mathew Weaver
RS27214	Relating to Water; to remove a date restriction associated with certain water rights.	Shelley Keen, Water Allocation Bureau Chief, Department of Water Resources
RS27453	Relating to the Rangeland Resources Commission; to revise nomination provisions for Commission seats	Vice Chairman Brackett

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS COMMITTEE SECRETARY

Chairman HeiderSen PatrickErin MillerVice Chairman BrackettSen GuthrieRoom: WW37Sen BairSen StennettPhone: 332-1323

Sen Johnson Sen Jordan Email: sres@senate.idaho.gov

Sen Mortimer

#### MINUTES

#### SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, January 29, 2020

TIME: 1:30 P.M.

PLACE: Room WW55

**MEMBERS** Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer,

PRESENT: Patrick, Guthrie, Stennett, and Jordan

ABSENT/ None

**EXCUSED:** 

NOTE: The sign-in sheet, testimonies and other related materials will be retained with

the minutes in the committee's office until the end of the session and will then be

located on file with the minutes in the Legislative Services Library.

Chairman Heider called the meeting of the Senate Resources and Environment CONVENED:

Committee (Committee) to order at 1:31 p.m.

**PASSED** Chairman Heider passed the gavel to Vice Chairman Brackett.

THE GAVEL:

DOCKET NO. Department of Water Resources, Water Resource Board, omnibus pending rule, 37-0000-1900 under IDAPA 37, page 252.

> Mathew Weaver, Deputy Director, Idaho Department of Water Resources (IDWR), introduced himself and informed that he was the IDWR designated Rules Regulation Officer. He then introduced other IDWR staff in attendance who are subject matter experts over the rule chapters and available to answer detailed questions if necessary: Brian Patton, Shelley Keen, Tim Luke, Tom Neace, John Falk, Remington Buyer, and Board member Burt Stevenson.

He stated that this omnibus rulemaking docket reauthorizes four non-fee rule chapters, each of which was previously reviewed and approved by the Legislature. He reported that in line with Governor Little's Red Tape Reduction Act IDWR identified and eliminated rules that were obsolete, outdated, and contrary to federal law. He assured the changes were nonsubstantive. These changes represented an approximate 21 percent reduction in restrictions from last year. He clarified that IDWR received two comments from the public regarding stream channel alteration rules and well construction standards rules; both instances requested the addition of substantive requirements which was contrary to the guidance from the governor through the reauthorization process, therefore IDWR did not change the rule. He confirmed that IDWR and the IDWR Board coordinated rulemaking with the Idaho Water Users Association.

**DISCUSSION:** Senator Stennett and Mr. Weaver discussed the Comprehensive State Water Plan

Rules, the Shoshone-Bannock Tribal Water Supply Bank rules, and the Conjunctive Management rules, and what changed under the Comprehensive State Water Plan that was significant. Mr. Weaver passed out and then discussed two summary

tables that showed the exact rule changes made (see attachment 1).

In response to Committee questions, Brian Patton, Executive Officer, Board Bureau Chief, IDWR discussed that the IDWR Board is looking at and considering initiating a review of the state water plan, especially as it pertains to agreements and structure of aguifer management, to perhaps incorporate management efforts into a new version of the plan.

MOTION: Senator Stennett moved to approve Docket No. 37-0000-1900. Senator Patrick seconded the motion. The motion carried by voice vote. DOCKET NO. Department of Water Resources, Water Resource Board, omnibus pending fee 37-0000-1900F rule, under IDAPA 37, page 308. Mr. Weaver discussed that his previous comments regarding the omnibus rulemaking process applied to how they approached and edited their 12 chapter fee rules which had been previously reviewed and approved by Legislature. Mr. Weaver emphasized and detailed that no fee amounts were changed. MOTION: Chairman Heider moved to approve Docket No. 37-0000-1900F. Senator Jordan seconded the motion. The motion carried by voice vote. **PASSED** Vice Chairman Brackett passed the gavel back to the Chairman Heider. THE GAVEL: RS 27214 Relating to Water; to remove a date restriction associated with certain water rights. Shelley Keen, Water Allocation Bureau Chief, IDWR, explained the legislation proposal eliminates an unnecessary filing requirement for water rights included in an adjudication and dates back to 1967. He detailed this requires water users with established water rights, through diversion and beneficial use or constitutional method, to file a claim with IDWR which creates a record of an unadjudicated water use. He explained this claim is not confirmed by IDWR nor a court of law. He reviewed that Idaho Code § 42-245 states that water users who fail to comply will relinquish their water rights unless they file a claim commenced by June 30, 1988, and the Snake River Basin Adjudication commenced in 1987. He reviewed that removing the 1988 cutoff date gives water users, in ongoing and future adjudications, the opportunity to file just one claim for a water right. He clarified that IDWR presented this proposal to the Idaho Water Users Association committee and received a favorable vote with no discussion. MOTION: Senator Bair moved to send RS 27214 to print. Senator Mortimer seconded the motion. The motion passed by voice vote. RS 27453 Relating to the Rangeland Resources Commission; to revise nomination provisions for Commission seats. Vice Chairman Brackett advised that this routing slip needs technical correction and will not be considered by the Committee today, and it will be held in Committee to make necessary corrections. ADJOURNED: There being no further business at this time, Chairman Heider adjourned the meeting at 2:00 p.m. Senator Heider Erin Miller

Chair

Secretary

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RULE#	TITLE	Authoritative Body	Authorizing Statues	Fee or Non-Fee	Eliminated Rules by Expiration
37.01.01	Rules of Procedure of the IDWR	Board & Department	42-1701A(1); 42-1734(19); 42- 1805(8); 67-2356; 67-5206(5)	Fee	None
37.02.01	Comprehensive State Water Plan Rules	Board	42-1734D; 67-5203	Non-Fee	None
37.02.02	Funding Program Rules	Board	42-1734; 42-1758	Fee	Whole Chapter
37.02.03	Water Supply Bank Rules	Board	42-1762	Fee	None
37.02.04	Shoshone Bannock Tribal Water Supply Bank Rules	Board	42-1761; 42-1765	Non-Fee	None
37.03.01	Adjudication Rules	Department	42-1414; 42-1805(8)	Fee	025.08, 035.02.b.i, 035.02.c.i, 035.03.c.i, 035.04.b.i, 035.06.b.i, 035.06.b. and 035.07.a.
37.03.02	Beneficial Use Examination Rules	Department	42-1805(8)	Fee	010.12, 055.01, and parts of rules 002, 010.19, 025.01, 030.03, 030.08, 035.01.c, 035.01.g, 035.01.m, 035.01.p,
					U35.U3.D, U45.U1, and U5U.U2.D.
37.03.03	Rules and Minimum Standards for the Construction & Use of Injection Wells	Board	42-3913; 42-3914; 42-3915	Fee	010.07, 010.15, 010.29, 010.30, 010.40, 010.48.a, 010.48.b, 010.49.e, 010.54, 010.56, 010.69, 010.70, 010.75, 010.90, 010.91, 010.92, 010.98, 010.101, 025, 040.02.b, 040.02.d, 045, 051, 054, 057, and 060.
37.03.04	Drilling for Geothermal Resources Rules	Board	42-4001; 42-4015	Fee	025.03
37.03.05	Mines Tailings Impoundment Structures Rules	Board	42-1714	Fee	None
37.03.06	Safety of Dams Rules	Board	42-1714; 42-1709; 42-1721	Fee	None
37.03.07	Stream Channel Atteration Rules	Board	42-3803	Fee	055.03, 055.05, 055.06, 058, 060, and 061, part of rule 056.07, and Appendices E, F, G, L, M, and part of K.
					035.03.a, 035.03.b.xv, 040.01.e, 040.02.d, 050.07, and parts
37.03.08	Water Appropriation Rules	Department	42-1805(8)	Fee	of rules 030.01.c, 030.03.a, 030.03.c, 035.01.a, 035.01.b, 035.02.a, 035.03.a, 035.03.b.iv, 035.03.b.xv, 035.04.a, 040.02.a.i, 040.02.a.ii, 045.02.b.iii, and 050.02.
37.03.09	Well Construction Standards and Rules	Board	42-238(12)	Fee	None
37.03.10	Well Driller Licensing Rules	Board	42-238(6)	Fee	None
37.03.11	Rules for Conjunctive Management of Surface and Ground Water Resources	Department	42-603	Non-Fee	None
37.03.12	IDWR Water Distribution Rules Water District 34	Department	42-603	Non-Fee	010.05, 010.14, 020, 035.02, 035.03, 035.06, 035.07, 040.01.a, 040.07, 045, 050, 055.01, 055.02, 055.03, and 055.04, and parts of rules 025.01, 040.01, 040.03.a, 040.03.b, and 055.06.

Summary of Eliminated Rules - Rules Reauthorization 2019

		No. of Eliminated	No. of Eliminated No. of Eliminated	Technical	11 5 1 5 11			PERSONAL
Rule No.	Rule Title	Words	Restrictive Words	Corrections	SHALL	SHALL MUST	KEQUIKED	PROMIBILED
37.01.01	Rules of Procedure of the IDWR	0	0	0	0	0	0	0
37.02.01	Comprehensive State Water Plan Rules	0	0	0	0	0	0	0
37.02.02	Funding Program Rules	2,121	18		13	2	5	0
37.02.03	Water Supply Bank Rules	0	0	0	0	0	0	0
37.02.04	Shoshone Bannock Tribal Water Supply Bank Rules	0	0	0	0	0	0	0
37.03.01	Adjudication Rules	905	0	3	0	0	0	0
37.03.02	Beneficial Use Examination Rules	248	1	5	0	0	1	0
37.03.03	Rules and Minimum Standards for the Construction & Use of Injection Wells	18,947	336	7	238	39	92	o.
37.03.04	Drilling for Geothermal Resources Rules	99	0	2	1	0	0	0
37.03.05	Mines Tailings Impoundment Structures Rules	0	0	0	0	0	0	0
37.03.06	Safety of Dams Rules	0	0	0	0	0	0	0
37.03.07	Stream Channel Alteration Rules	1,014	62	0	57	2	ю	0
37.03.08	Water Appropriation Rules	750	14	1	∞	2	4	0
37.03.09	Well Construction Standards and Rules	0	0	0	0	0	0	0
37.03.10	Well Driller Licensing Rules	0	0	0	0	0	0	0
37.03.11	Rules for Conjunctive Management of Surface and Ground Water Resources	0	0	0	0	0	0	0
37.03.12	IDWR Water Distribution Rules Water District 34	3,378	43	0	27	5	11	0
	Total Words Eliminated:	27,123	474	18	344	20	74	6
	Total Words:	129,367	2,260	*	1	:	1	,
	Percent of Words Eliminated	21%	21%	1	1	1	1	3

#### JOINT AGENDA

# SENATE RESOURCES & ENVIRONMENT COMMITTEE AND HOUSE RESOURCES & CONSERVATION COMMITTEE

#### 1:30 P.M. WW02 Lincoln Auditorium Monday, February 03, 2020

SUBJECT	DESCRIPTION	PRESENTER
PRESENTATION:	A Limnology Primer	Frank M. Wilhelm, Ph.D., Professor, University of Idaho

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS COMMITTEE SECRETARY

Chairman HeiderSen PatrickErin MillerVice Chairman BrackettSen GuthrieRoom: WW37Sen BairSen StennettPhone: 332-1323

Sen Johnson Sen Jordan Email: sres@senate.idaho.gov

Sen Mortimer

#### MINUTES JOINT MEETING

## SENATE RESOURCES & ENVIRONMENT COMMITTEE HOUSE RESOURCES & CONSERVATION COMMITTEE

**DATE:** Monday, February 03, 2020

**TIME:** 1:30 P.M.

PLACE: WW02 Lincoln Auditorium

MEMBERS Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer,

**PRESENT:** Patrick, Guthrie, Stennett, and Jordan

Chairman Gibbs, Vice Chairman Gestrin, Representatives Moyle, Shepherd, Wood, Boyle, Vander Woude, Mendive, Kauffman, Blanksma, Addis, Lickley,

Moon, Raybould, Rubel, Toone, Mason, and Necochea

**ABSENT/** Representatives Moyle, Wood, and Rubel **EXCUSED**:

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the

minutes in the committee's office until the end of the session and will then be

located on file with the minutes in the Legislative Services Library.

**CONVENED:** Chairman Heider called the joint meeting of the Senate Resources and

Environment Committee and House Resources and Conservation Committee

(Committees) to order at 1:31 p.m.

PRESENTATION: A Limnology Primer.

Roy Eiguren, Managing Partner, Eiguren Ellis, introduced himself and explained the reason for the presentation was to provide the Committee with an understanding of the basic science of the composition and lifecycle of lakes, and the impacts of wave action, specifically waves or wakes created by motorboats, upon Idaho lakes. Mr. Eiguren further discussed what the study of limnology entailed, and provided background on the 1991 Big Payette Water Quality Act. He then introduced Dr. Frank M. Wilhelm, detailed his background, and emphasized he was an internationally recognized scientist in the field of limnology.

**Frank M. Wilhelm**, Ph.D., Professor, University of Idaho, introduced himself and presented his limnology primer (for his summary see attachment 1) so that the Committee could understand the study he has undertaken. He explained that water was an important resource therefore it needed to be taken care of for a prosperous future. **Dr. Wilhelm** detailed the various demands placed upon water resources by humans, animals, industry, agriculture, and recreation. He reported on water needs of the state per capita, per day. He further explained current lake conditions in scientific detail and what the future may hold for the lakes that filter Idaho's water. He described with concern that turbidity increases throughout the day as a boat goes by and redistributes sediment. He addressed that Idaho has a 100 foot no wake zone, and that counties and cities can set additional restrictions. He showed graphics to illustrate sediment, algae, and lake conditions.

#### DISCUSSION:

Chairman Heider asked several questions regarding the effect wakes have on shorelines. Dr. Wilhelm detailed that wakes hit higher on the sea walls then what is already there, and depending on the composition of the shoreline and soil type, and size of wake, this causes shorelines to erode at a much faster rate. He explained that graduate students are doing research right now, collecting various data points. He also specified that wake zones laws should be set according to the body of water's shoreline condition and composition, to be able to understand what it can handle.

**Alan Shealy**, an Idaho resident, requested permission to ask questions and discussed with Dr. Wilhelm the vertical displacement of water by wakes, and the graduate students' ongoing research.

Jessica Archibald introduced herself as a research assistant on the project. She expounded to the Committee that she had created a compendium (see attachment 2) which details her findings. In response to Committee questions she explained that her studies were focused on prevention versus cures, and discussed Montana's more stringent polices.

#### **ADJOURNED:**

There being no further business at this time, **Chairman Heider** adjourned the meeting at 2:23 p.m.

Senator Heider	Erin Miller
Chair	Secretary

Frank M. Wilhelm fwilhelm@uidaho.edu

Summary for 'A Limnology Primer" To be presented Feb 03, 2020, 13:30



DEPARTMENT OF FISH AND WILDLIFE SCIENCES

College of Natural Resources 875 Perimeter Drive MS 1136 Moscow ID 83844-1136

208-885-6434 208-885-9080 [FAX] uidaho.edu/cnr/fishwild

Outdoor recreation and tourism are cited as important facets of Idaho's 'Key Industries" (Idaho Commerce), and water resources with high water quality are an integral component of this. Without a high-quality resource, the direct and indirect economic benefits will not be realized.

Idahoans expect their elected official to make sound decisions to ensure a strong economy and to safeguard the natural resources that are an integral to this.

The transport of excessive nutrients (nitrogen - N, and phosphorus - P) to aquatic ecosystems from human activities stimulates high aquatic plant growth that shortens the millennia-long natural eutrophication process to tens of years so that changes become visible during a human life time. This is termed 'cultural eutrophication'.

Of the two nutrients, typically P is in shortest supply, meaning that small additions greatly stimulate plant growth. Our activities on the landscape tend to liberate high amounts of P, resulting not only in elevated P in water, but also in an imbalance between N and P. This provides an advantage to cyanobacteria (blue-green algae) that can overcome N deficits by obtaining it from the atmosphere. Blooms of such algae are termed Harmful Algal Blooms (HABs) because they can produce some of the most potent toxins known to humans and consume oxygen from the water when they die.

Lakes and reservoirs generally retain 60-90% of sediment and nutrients that enter which can then cycle internally, each cycle potentially stimulating plant growth. Cycling of P occurs due to the lack of oxygen near the bottom, or from physical disturbances such as wind- or boat-generated waves/wakes in nearshore areas. The quantity of nutrients recycled physically depends on the bottom type and the amount of P in it. We currently have very poor data for Idaho waters, but it is clear that a blanket 'one size fits all' for nowake zones to protect shorelines composed of vastly different materials is not appropriate.

The increasing prevalence of wake boats that generate 3' to 5' wakes for recreation presents a novel disturbance regime in terms of shoreline erosion and nutrient recycling when those waves come ashore because they are often beyond what our lakes have experienced in the past. Because the boats use internal water filled bladders/tanks to assist in making the wake, they also represent potential vectors for the transfer of invasive species among water bodies.

It is imperative to base decisions on sound science, thus we need to quantify the amount of P by type of lake bottom (silt, sand/gravel, rock etc.) and determine how much is recycled by different wave types to set realistic no-wake zones to protect high quality waters.

#### Compendium of Materials Relating to the Effects of Wake Boats on Idaho Lakes: Summary

A report prepared for the Idaho Senate Committee of Resources and Environment and House Committee of Resources and Conservation

This compendium was designed and collected pro-bono by the Eiguren Ellis Public Policy Firm to provide an unbiased collection of relevant materials to provide to interested actors in the issue of Wave Enhancement Technology (WET) utilizing boats and their potential effects for Idaho's aquatic ecosystems.

Though this compendium is extensive, it does not cover all issues, studies, or pieces of legislation. It is intended to provide a robust source of relevant information to the topic for interested parties. These documents have been placed in an electronic file through the Google Drive application along with many of the full studies referenced in this compendium. The electronic file can be found at this link:

https://drive.google.com/drive/folders/1UlgmwdvXIIpsFznhNAHllTxrNcyP0eo6?usp=sharing

Although this document will continually be updated digitally, here are the most recent metrics of what our investigation has found:

#### Reports and Studies:

We found 31 different reports or studies as they related to the three different categories.

- The 10 studies related to boat and wake characteristics suggested that recreational boat characteristics are indeed related to the type of wake and the power of a wake. Furthermore, they highlight that the type of wakes tied to wake boat activity are bigger and hold more energy. Finally, they demonstrated that in Idaho, recreational boating is an important industry for the economy and for recreation.
- The 16 studies related to sediment suspension and shoreline erosion detail the erosion rates attributed to wake energy, which is often higher than that of normal wind wave energy. They detailed the increased sediment disturbance due to wake boat waves (up to 5 m), and they demonstrated that the wake boat waves can take up to 300 m to dissipate. These studies demonstrated that anthropogenic wakes are often a major source of erosion and sediment disturbance, and they further demonstrated that wakes from wake boats more highly impact these disturbances due to their characteristics.
- The 5 studies related to invasive species highlighted that through their ballast use design, wake boats have a higher chance of spreading invasive species throughout waterways because they are more difficult to dry and impossible to fully drain. They also demonstrate that mussel larva can reside within boats for a period of up to 30 days.

#### **Rules and Regulations:**

- Totals Pieces of Legislation/Ordinances/Rules Identified: 14
- Total Legislation at State Level: 5 passed, 3 pending
- Total Legislation at Local Level: 2 passed
- Total Rules Passed by State Agencies: 3
- Total Rules Passed by Private Entity: 1

- Total States with Some Legislation; 9
- These policies range in their implementation of restriction of wake boats through the ban of their use, regulations around their mandatory cleaning, the implementation of a variety of distances of no wake zones, restriction of "wake hours", the creation of "no-wake" bodies of water, the creation of towed water sports education programs and a permitting program, or the formation of commissions to study the impacts of WET boats. The no-wake range varies from 100 ft up to 700 ft in the passed legislation. In summary, we found 4 regulations that have (or propose to) banned wake boats or the use of ballast. We found 1 bill that creates mandatory cleaning of wake boats. Finally, we found 9 regulations that establish no-wake zones.

#### Media:

- We included 20 media articles and reports
- Includes reports and articles from newspapers, magazines, blogs, as well as government information pamphlets
- They relate to wake boats, conflicts about wake boats, wake boat policy, and their restriction across the United States as well as detail some of the new regulations put in place by varying agencies.

#### **Public Comments:**

- There are 10 different comments from the public.
- They express concerns of property damage, spread of invasive species, safety, lack of access for other forms of lake recreations, and shoreline erosion.

#### Valley Country Studies:

- There is a current investigation at Payette Lake included in this compendium on shoreline erosion and wake energy
- There are studies from the IDEQ that include monitoring results from Payette Lake
- This compendium includes a proposed study to analyze the effects of wake boats specific to Lake Cascade and the Big Payette Lake

#### **AGENDA**

## SENATE RESOURCES & ENVIRONMENT COMMITTEE 1:30 P.M.

#### Room WW55 Wednesday, February 05, 2020

SUBJECT	DESCRIPTION	PRESENTER
MINUTES APPROVAL:	Committee approval for Minutes of the January 20, 2020 meeting.	Senator Stennett
RS27499	Relating to irrigation districts, to revise provisions for assessment purposes.	Paul Arrington, Executive Director and General Counsel, Idaho Water Users Association
RS27500	Relating to irrigation districts, to combine precincts, to provide location of polling place, and judges of election.	Paul Arrington
RS27532	Relating to the Rangeland Resources Commission, to revise nomination provisions for Commission seats.	Vice Chairman Bert Brackett
PRESENTATION	Eastern Snake Plain Aquifer (ESPA), Comprehensive Aquifer Management Plan status report.	Brian Patton, P.E. Executive Officer, Idaho Water Resource Board Bureau Chief, Idaho Department of Water Resources
PRESENTATION	: Cooperative ESPA dye tracing program update.	Neal Farmer, Special Projects Coordinator, Idaho Department of Water Resources

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERSCOMMITTEE SECRETARYChairman HeiderSen PatrickErin MillerVice Chairman BrackettSen GuthrieRoom: WW37Sen BairSen StennettPhone: 332-1323

Sen Johnson Sen Jordan Email: sres@senate.idaho.gov

Sen Mortimer

#### MINUTES

#### SENATE RESOURCES & ENVIRONMENT COMMITTEE

**DATE:** Wednesday, February 05, 2020

**TIME:** 1:30 P.M.

PLACE: Room WW55

**MEMBERS** Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer,

**PRESENT:** Patrick, Guthrie, Stennett, and Jordan

ABSENT/ None

EXCUSED:

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with

the minutes in the committee's office until the end of the session and will then be

located on file with the minutes in the Legislative Services Library.

**CONVENED:** Chairman Heider called the meeting of the Senate Resources and Environment

Committee (Committee) to order at 1:33 p.m.

MINUTES Senator Bair moved to approve the Minutes of January 20, 2020. Senator

**APPROVAL:** Patrick seconded the motion. The motion carried by voice vote.

**RS 27499** Relating to irrigation districts, to revise provisions for assessment purposes.

Paul Arrington, Executive Director and General Counsel, Idaho Water Users Association, introduced himself and provided background that Idaho Code § 43-732 assesses a service charge, in addition to regular assessments, when the cost of delivering water to small tract lands is substantially greater than the cost of water delivery to other lands in a district. He stated that this Routing Slip would allow the irrigation districts to more appropriately divide the groupings identified in Idaho Code § 43-732 to less than one acre, and one to ten acres. He explained the importance of the distinction since delivering water to small tracts of land is more costly and time consuming than the costs associated with delivering water to tracts of land from one to ten acres. He spelled out that the current trend is tracts being smaller than an acre. He identified the Glenns Ferry District as where this concern stems from. He demonstrated that this division will allow irrigation districts that utilize this process to more appropriately and fairly assess their water users.

MOTION: Senator Bair moved to send RS 27499, 27500, and 27532 to print. Senator

Mortimer seconded the motion. The motion carried by voice vote.

PRESENTATION: Eastern Snake Plain Aquifer (ESPA), Comprehensive Aquifer Management Plan

status report.

**Brian Patton**, P.E. Executive Officer, Idaho Water Resource Board Bureau Chief, Idaho Department of Water Resources, provided a background on Idaho's aquifer health and the efforts to manage the water storage therein over the past ten years. He detailed the water changes, aquifer storage and flows, and provided

several data points and reports (see attachment 1).

**DISCUSSION:** Chairman Heider inquired about water flows during recharge season. Mr. Patton

clarified that winter is when there is excess water, and that they do make efforts to

harness and control the flows and where excess enters the aquifer.

**Senator Patrick** and **Mr. Patton** discussed the flows in American Falls – the amounts of water allowed to flow into canals versus being used to recharge the

aquifer.

**Senator Guthrie** and **Mr. Patton** discussed water concentration and the 537,000 acre feet cloud seeding results. They discussed having met the Comprehensive Aquifer Management Plan goals 10 years into the 30 year plan, therefore going forward the goals will focus on: flow and water right constraints which limit availability to recharge, the ability to meet infrastructure build out goals, and how to make the program operate more effectively and efficiently.

**PRESENTATION:** Cooperative ESPA dye tracing program update.

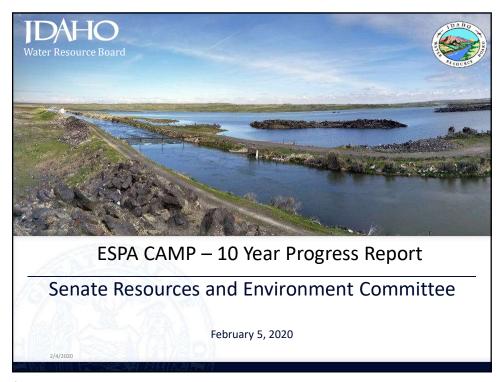
**Neal Farmer**, Special Projects Coordinator, Idaho Department of Water Resources, introduced himself and discussed that his team has worked for about 12 years on the Swan Falls Reaffirmation Agreement, The last ten years were engaged in groundwater dye tracking, which was a cooperative effort between the Department of Water Resources and Idaho Power Company. He detailed that the program had been audited and it passed with flying colors. He described that the team wanted to understand water flows, power generation, and water quality. He asserted that they were researching recharged water to determine what percentage, if any, of the flow actually goes into the aquifer to improve their understanding about where the recharge water travels to and where it does not. He expounded that they were building a data set to help ground water flows (see attachment 2).

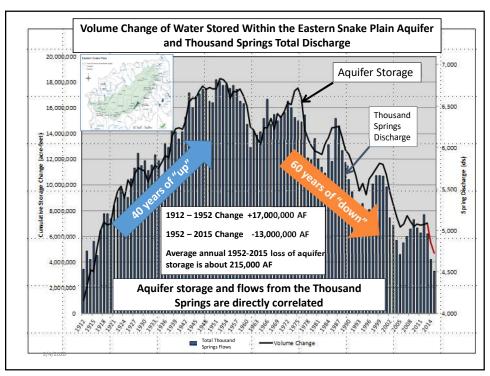
**Senator Brackett** stated that going forward he thought it was important that this program continue to identify the most effective recharge sites and thereby concentrate recharge efforts at those sites. He supported the continuation to fund this program.

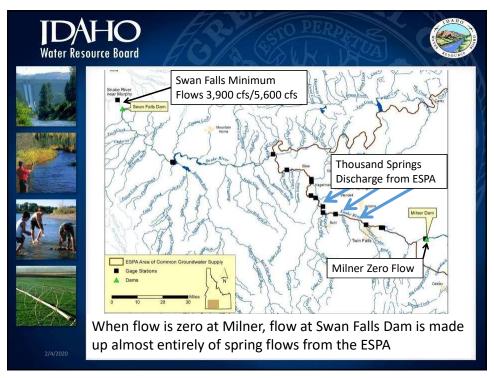
ADJOURNED:

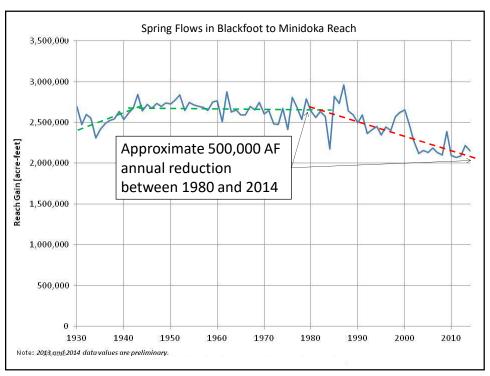
There being no further business at this time, **Chairman Heider** adjourned the meeting at 2:59 p.m.

Senator Heider	Erin Miller
Chair	Secretary

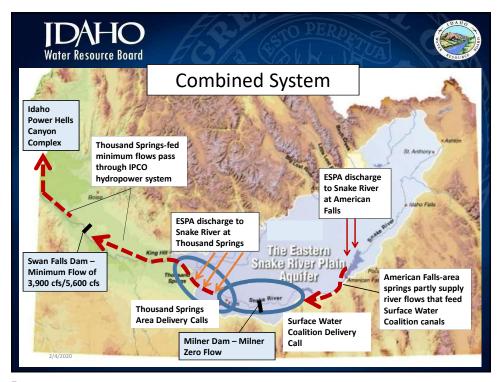








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- The Comprehensive Aquifer Management Plan (CAMP) was attempt to create a management program for the ESPA to resolve water use conflicts, maintain the Swan Falls minimum flows, and provide other positive outcomes
- The ESPA CAMP adopted by Water Board and approved by Legislature as part of State Water Plan in 2009
- CAMP set goals for management of ESPA by proposing a water budget change of 600,000 AF through management actions:
  - · Aquifer Recharge
  - Demand Reduction
  - Ground Water-to-Surface Water Conversions
  - Could Seeding
- CAMP also proposed funding allocation to pay for management -- not adopted

2/4/2020



- By letter dated May 8, 2019, Speaker Bedke requested Water Board conduct a 10-year review of CAMP actions and implementation
- · Letter included several questions and requested recommendations
- · Water Board approached the review as follows:
  - Inventoried aquifer management actions including those done by State and by others
  - ✓ Reported aquifer level, spring flow, and reach gain responses
  - ✓ Reported on finances provided by State for aquifer management
  - Conducted review in open, transparent manner through sub-committee meetings
  - ✓ Invited stakeholder input

2/4/2020

7



Major management actions proposed in CAMP have been implemented:

- Aquifer Recharge Water Board implementing a 250,000 AF average annual program with state funding and Legislative direction (HB547 in 2014; SCR136 in 2016)
- ✓ <u>Demand Reduction</u> ground water users agreed to reduce use by 240,000 AF in 2015 SWC-IGWA Settlement Agreement
- ✓ <u>Ground Water-to-Surface Water Conversions</u> some projects counted toward 240,000 AF reduction; others are separate including 79,000 AF in SWID and 8,000 AF in ABID
- ✓ <u>Cloud Seeding</u> cooperative program put into place as joint venture between Idaho Power, State, and Water Users in Upper Snake and Wood (and Boise) Basins

2/4/2020



- · Other actions contributing to ESPA Aquifer Management:
  - ✓ IGWA-SWC Settlement Agreement IGWA provides 50,000 AF of storage water to SWC every year -- If not needed by SWC, it is to be used for aquifer management
  - ✓ Cities-SWC-IGWA Settlement Agreement ESPA Cities agreed to provide 7,650 AF of storage every year to aquifer management
  - ✓ Others food processors, SWID, ABID agreements
- Adding up all these actions puts at 554,000 AF toward the 600,000 AF CAMP water budget goal from actions reasonably certain to occur
- Other actions occurring that are opportunistic
- CAMP estimated 30 years to reach 600,000 AF

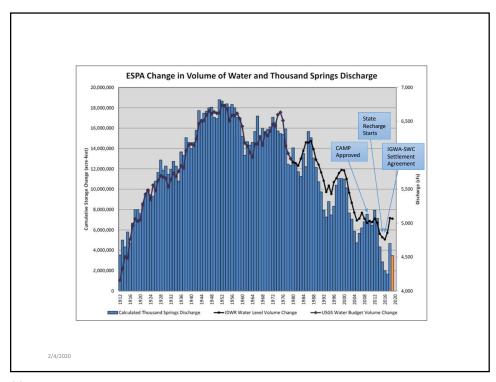
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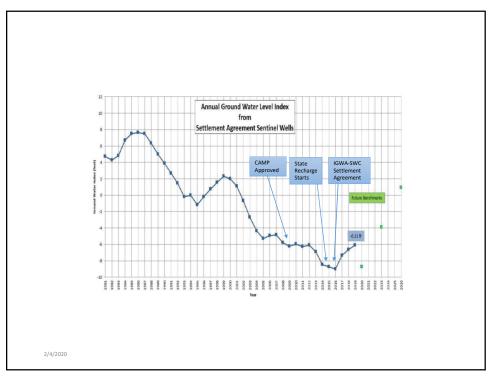
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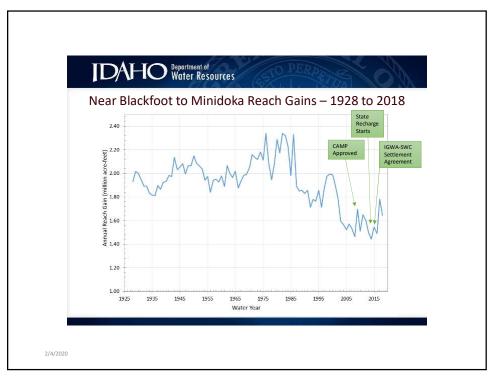
Action		Acre-Feet
IWRB Managed Recharge	Existing Average Annual Capacity	202,000
Demand Reduction		
IGWA-SWC Settlement	2016-2018 Average	239,967
SWID-SWC Settlement	2016-2018 Average	6,421
Ground Water to Surface Water Conversions	,	
SWID Conversions	2016-2018 Average	78,875
A&B ID Conversions	2016-2018 Average	8,340
Weather Modification/Cloud Seeding	2016-2018 Average	TBD*
Other Annual Activities		
Storage Water from SWC Cities Settlement	Annual Contribution	7,650
SWID Recharge	In addition to IWRB Recharge; 2016- 2018 Average	10,894
TOTAL AVERAGE ANNUAL	Company of the Compan	554,147
Opportunistic Activities - Wet Years Only		
	50 000 AF annuit was discount for	50,000
Storage Water from SWC-IGWA Settlement	50, 000 AF contributed for recharge if not needed by SWC	50,000
IGWA Private Recharge	IGWA-SWC Settlement; 2016-2018 ava.	145,130

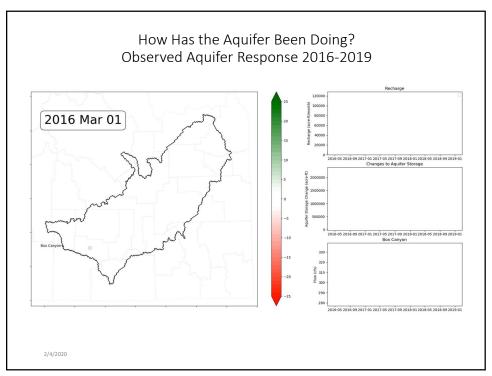
<sup>\*</sup>Measured by average annual increase in unregulated runoff; currently estimated to be approximately 537,000 acre-feet annually across the ESPA. Efforts are currently underway to determine where the additional water supply is used.

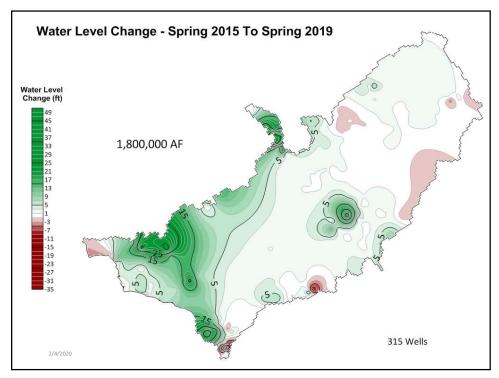
Note – IWRB Managed Recharge numbers are reported as of mid-2019. Additional recharge capacity has been completed since that date (Northside Canal Company) and places the average annual capacity at about 240,000 AF.









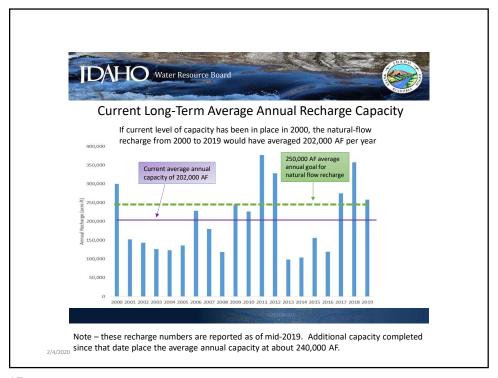




#### A Few Thoughts on Managed Recharge as it Relates to the CAMP

- SCR136 passed by the 2016 Legislature directs IWRB to develop managed recharge program for ESPA of 250,000 AF on average
- How to define average annual? IWRB considered in CAMP review and is proposing a 30-year rolling average.
- Even though recharge in last 3 years has exceeded 250,000 AF, we still don't have enough capacity to average 250,000 AF over longterm

2/4/2020





- Managed Recharge Water Quality
  - State recharge is extensively monitored water going into recharge sites, and ground water before, during, and after recharge
  - ✓ State recharge is causing no effect to ground water quality
- Role of "Storage Water" recharge by IWRB
  - ✓ Several settlement agreements require parties to provide storage water for aquifer management
  - ✓ Some parties choose to have IWRB recharge it for convenience they could choose to use it differently for aquifer management
  - ✓ Should be counted separately from the State's 250,000 AF average annual program using natural flows

2/4/2020



#### Role of "Private Recharge" by others

- ✓ SWC-IGWA Settlement allows IGWA Ground Water Districts to offset required reductions with managed recharge
- ✓ Creates a market for managed recharge by private or 3<sup>rd</sup> parties
- ✓ Recharge is done with:
  - Storage water leased through Rental Pool
  - · Natural flow irrigation rights leased through Water Supply Bank
  - Natural flow recharge rights help by irrigation districts, canal companies, or ground water districts
  - Temporary water use approvals during large flows
- Since this is done pursuant to the IGWA-SWC Settlement, it should be considered separate from the State's 250,000 AF recharge program
- ✓ Through 42-2737, IWRB has role in approving any recharge project greater that 10,000 AF/year on average proposing new use of natural flows

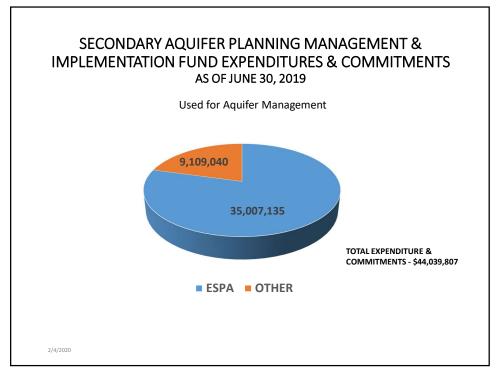
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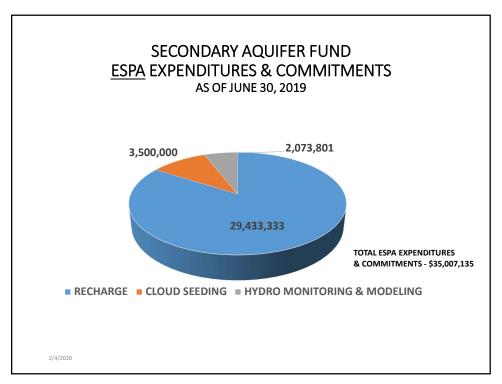
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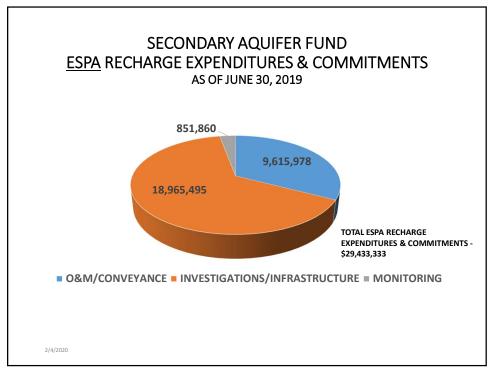
# SECONDARY AQUIFER PLANNING MANAGEMENT & IMPLEMENTATION FUND REVENUE AS OF JUNE 30, 2019 Used for Aquifer Management 6,775,864 2,500,000 25,000,000 TOTAL REVENUE - \$54,275,864 CIGARETTE TAX GENERAL FUND CONOMIC RECOVERY RESERVE FUND OTHER • Cigarette Tax - HB547 (2014) -- up to \$5M annually for "Statewide Aquifer Stabilization" • General Fund -- Part of IDWR "Base Budget" beginning in FY2016 -- \$5M annually for "Water Sustainability" and "Aquifer Management"

20

2/4/2020









#### A Few Thoughts on Finances as they Relate to CAMP

- · State is paying for the aquifer recharge and part of cloud seeding
- Ground water users are paying for the demand reduction
  - ✓ Reduced use and therefore reduced crop production
  - $\checkmark\,$  In some cases they are installing GW-to-SW conversion projects to reduce ground water use
  - ✓ SWID and ABID, though not required to reduce GW use under the SWC-IGWA Settlement, have expended significant amounts to install large-scale GW-to-SW conversion projects
  - $\checkmark$  Cities, food processors also bearing costs
- May never have a full accounting of ESPA Aquifer Management Costs
- CAMP estimated \$600 million over 30 years to achieve 600,000 AF water budget change

2/4/2020



#### **CAMP Implementation Committee**

- CAMP report recommended formation of "Implementation Committee" to assist IWRB in implementation the CAMP actions
- Implementation Committee was formed most CAMP Advisory Committee members were retained
- Without the funding mechanism, Implementation Committee only met a few times
- There has been requests to re-form the Implementation Committee
- IWRB is instead considering forming a Recharge Program Advisory Committee

2/4/2020

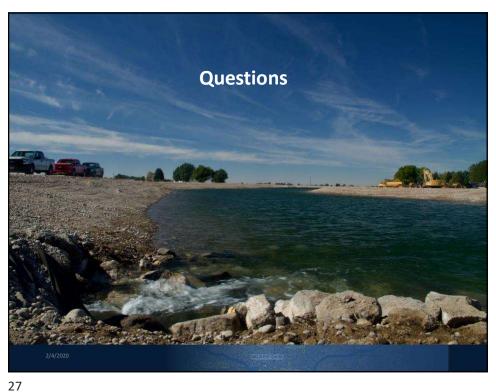
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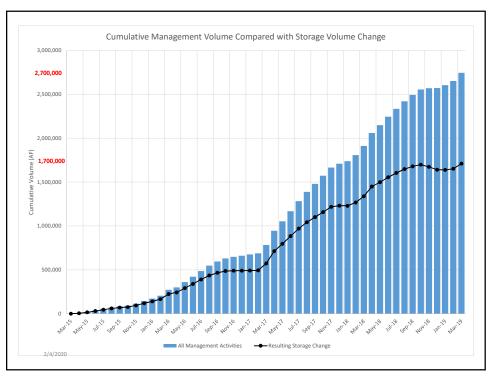


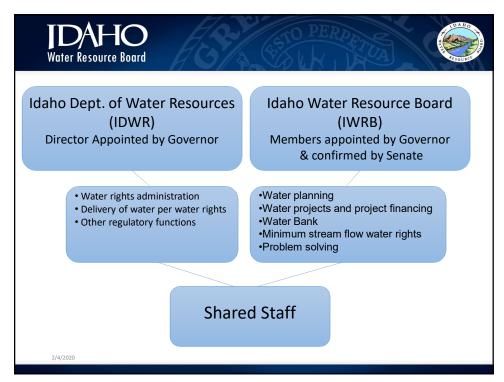
#### Report

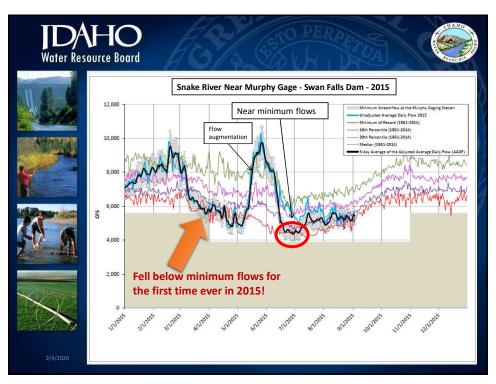
- The report was completed in December
- Submitted to the Governor, Legislative Leadership, and the House and Senate Resource Committees
- It can be found at https://idwr. idaho.gov/IWRB/

2/4/2020









# DAHO Department of Water Resources



Mike McLeoc

**Idaho Power** 



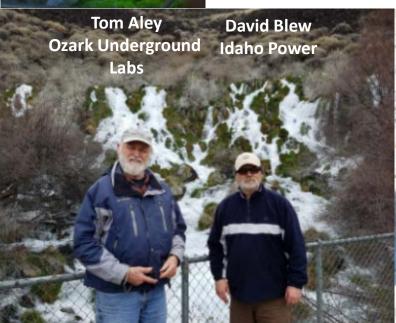
# Cooperative ESPA Dye Tracing Program – 10 Year Review –

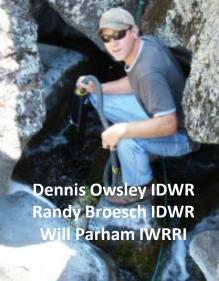
by:

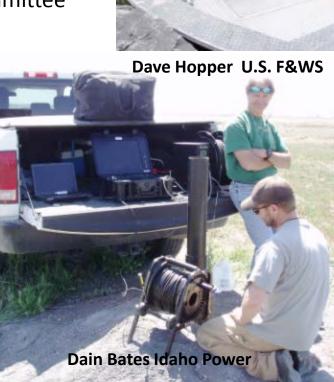
Neal Farmer, Idaho Department of Water Resources and

David Blew, Idaho Power Company for

Idaho Senate Natural Resources Committee February 5<sup>th</sup>, 2020











## Background of the Dye Tracer Studies

Dye tracer studies were initiated in response to the Swan Falls Reaffirmation Agreement between Idaho Power and the State of Idaho and the Completion of CAMP

Need to develop an understanding of near canyon aquifer characteristics and aquifer recharge sites.

- Spring discharge comprises the majority of flow in the Snake River below Milner Dam
- Important for maintaining hydropower production
- Important for maintaining and improving water quality of the Snake River
- Springs are important habitats for many specimens.





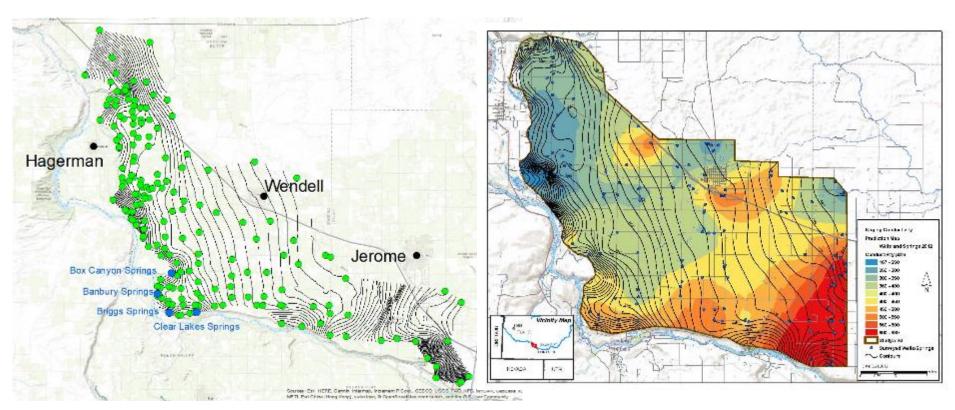
- Dye tracing is a 'tool' that is used to track aquifer recharge water by releasing a nontoxic EPA approved dye.
- Preparing for a dye trace involves a lot of planning and preparation work.





## Cooperative Dye Tracing Groundwater Studies

(dye trace preparation)



IDWR and Idaho Power participated in a cooperative effort to create a high resolution water table map for the western edge of the ESPA and aquifer chemistry.



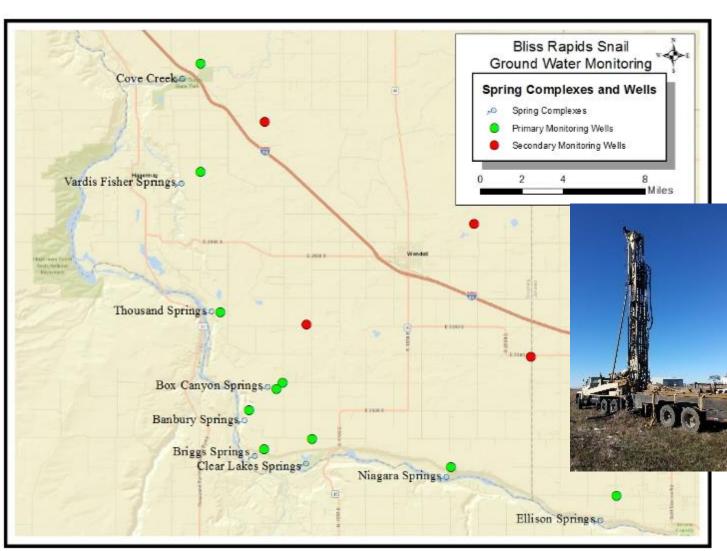


### Cooperative Dye Tracing Groundwater Studies

(dye trace preparation)

Construction of Near Rim Monitoring Wells

- From 2013 through 2017 IDWR and Idaho Power have cooperatively developed 14 monitoring wells
  - Drilled 6 new monitoring wells
  - Retrofitted 5 unused wells
  - Equipped 3
     existing
     domestic wells







### **Financial Contributions for Tracers**

### Idaho Power

- \$127,000 Direct Payments to IDWR
- Labor and other in kind services

### Idaho Department of Water Resources

- \$90,335 Equipment, lab analysis, etc.
- Labor, vehicle, travel costs, and other in kind services







Malad Gorge • 1

Box Canyon Springs

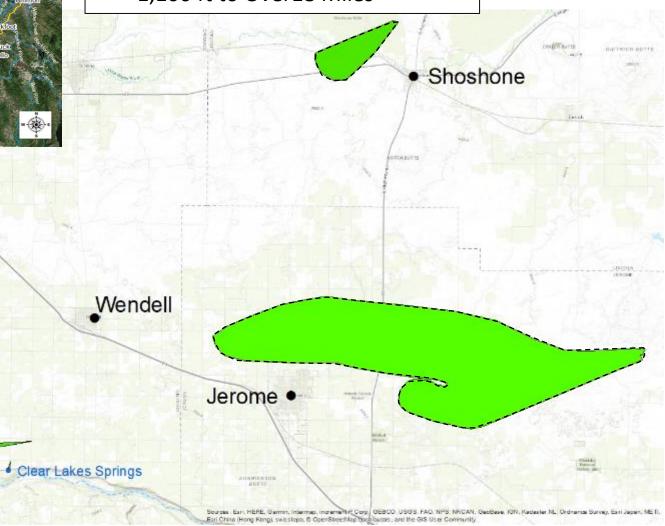
Banbury Springs

Briggs Springs

Hagerman

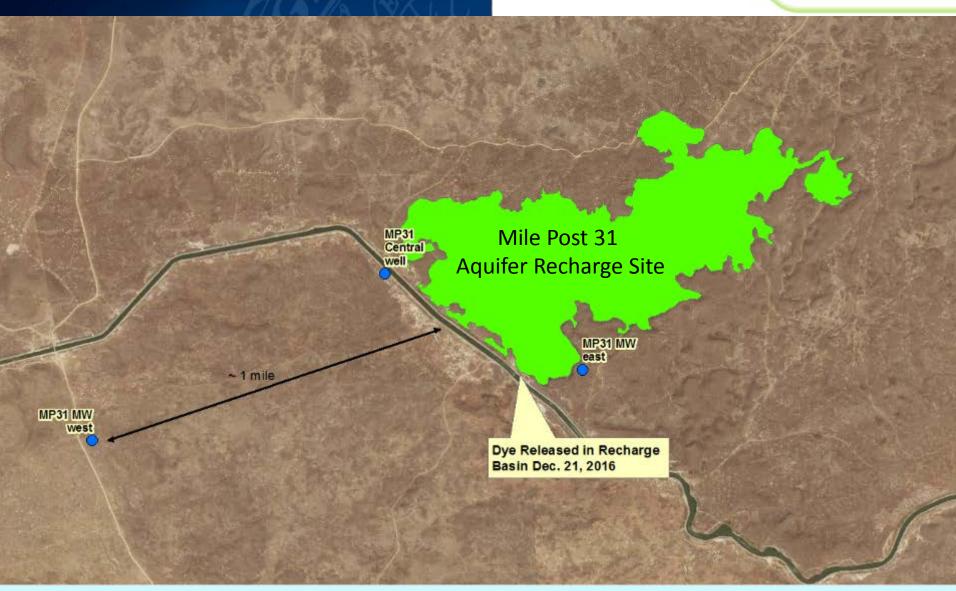
### **Traces Completed since 2009**

- 13 Locations
- 24 Traces
- 1,100 ft to Over18 Miles













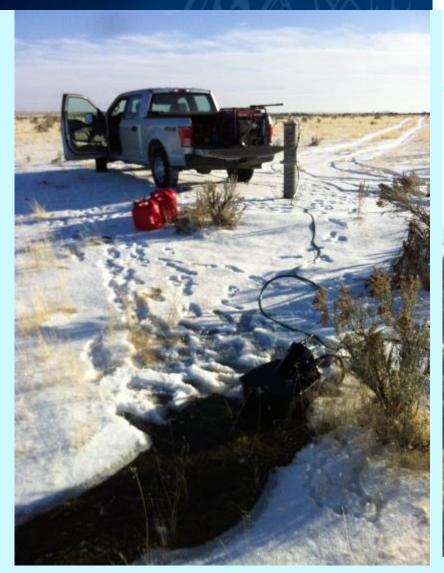
### 124 Pounds of FL Released Dec. 21, 2016.





### IDAHO Department of Water Resources





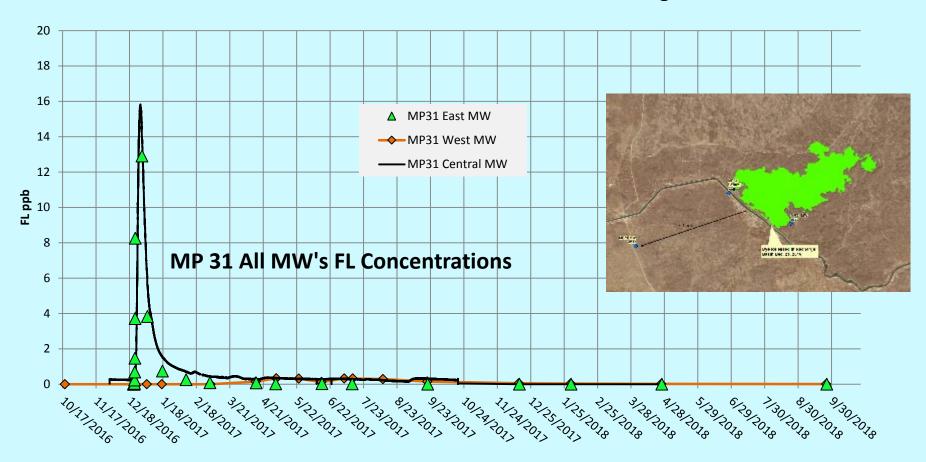


Continuous sampling in East Monitor Well after dye release.





### What Monitor Wells are in The Flow Path of Recharge Water?



### MV=393 ft/day DAHO Department of DV=256 Water Resources

Water

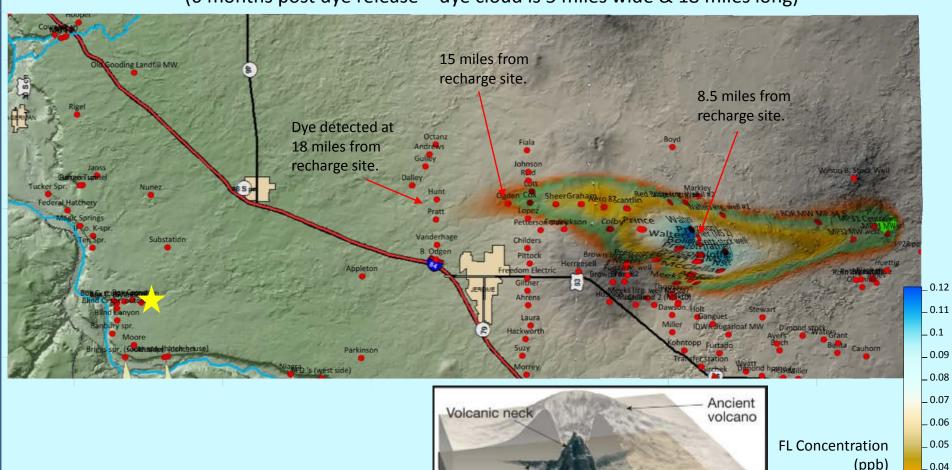


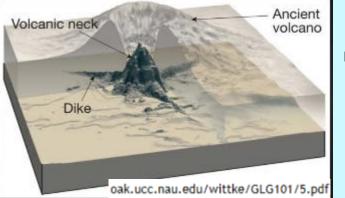






### Mile Post 31 Trace Flow Path Deflection (6 months post dye release – dye cloud is 5 miles wide & 18 miles long)



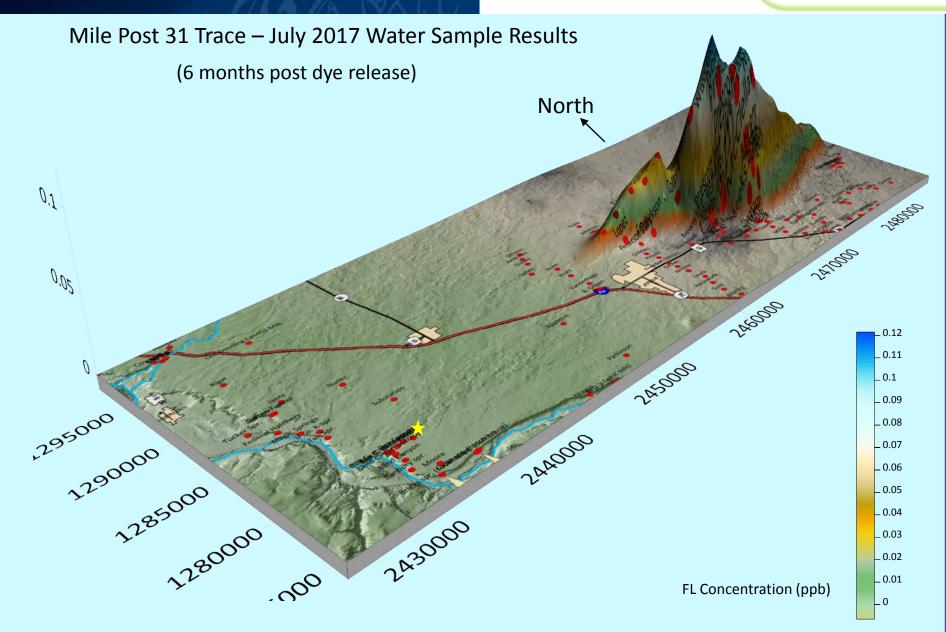


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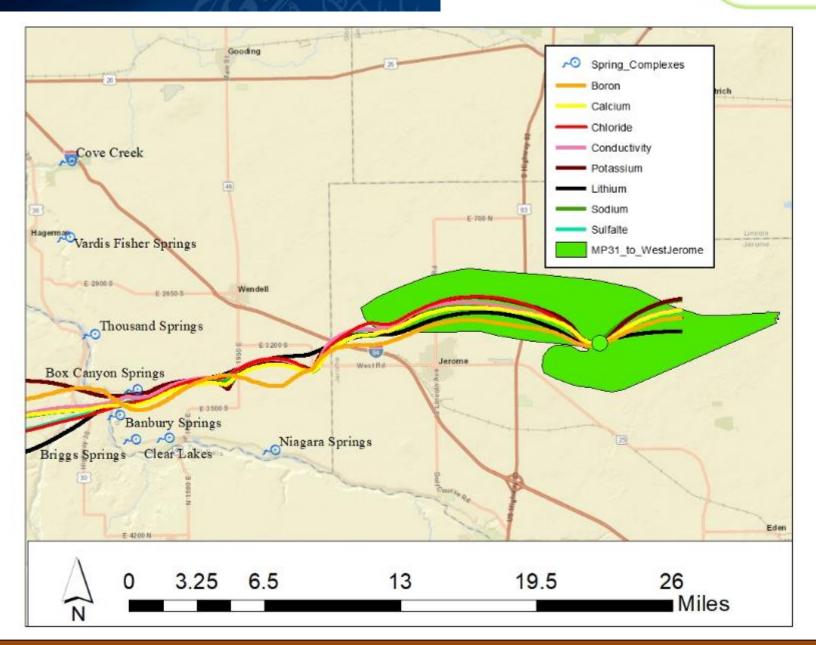








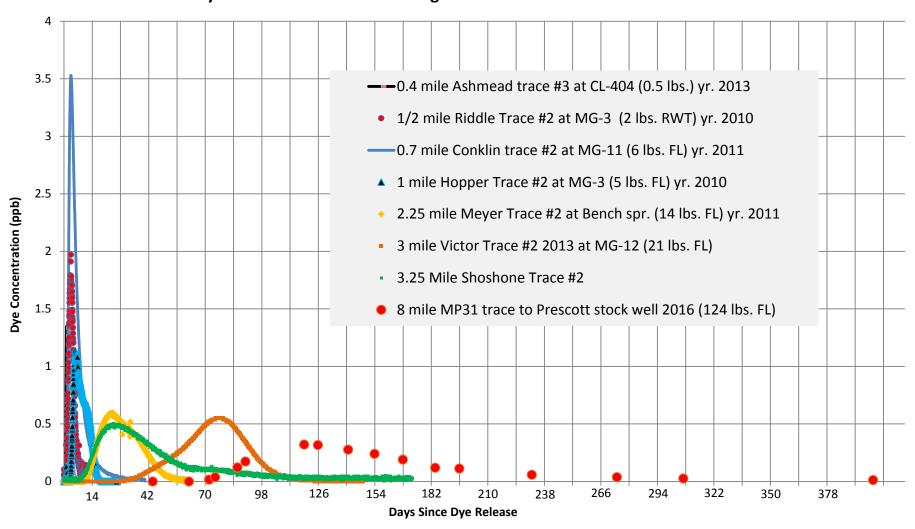








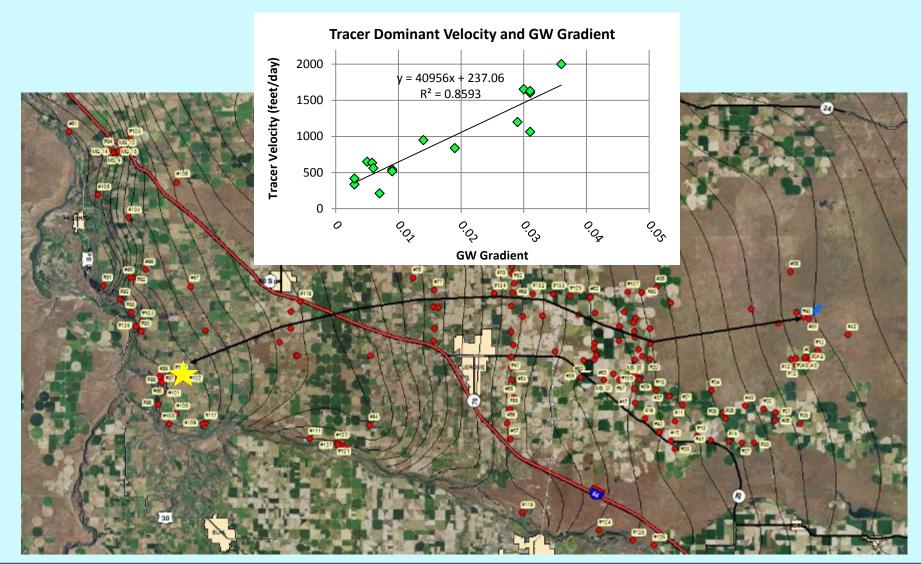
### **Dye Concentration Breakthrough Curves Define Groundwater Velocities**







Relationships between groundwater gradient and groundwater flow velocities which allow for prediction at other recharge sites for planning purposes.





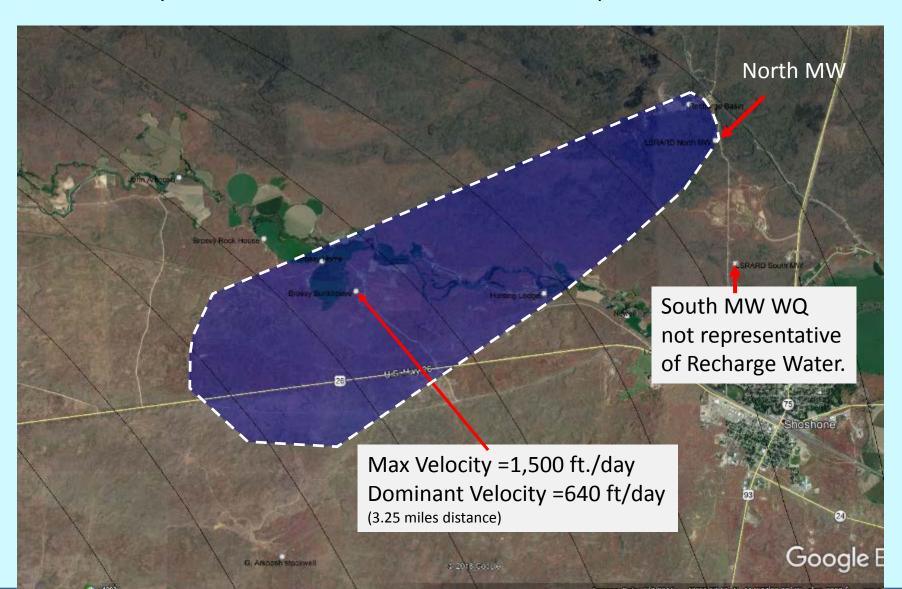




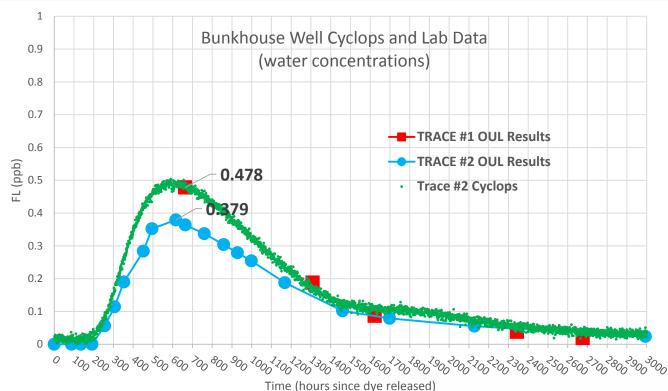




Shoshone Dye Trace delineates wells that are in the flow path and others that are not.









'Spin Off' Technology







### Wilson Canyon Recharge Site Trace Preparation

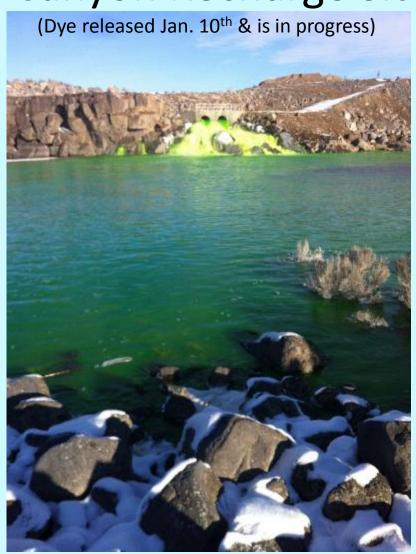
- Built high resolution water table maps to assist with prediction of dye flow paths and establish monitoring sites.
- Install monitor wells and telemetry to increase our abilities to monitor recharge and the aquifer.







### Wilson Canyon Recharge Site Trace







### Summary

- Tracks Groundwater Flow for improved understanding of the aquifer.
- Tracing shows where the water flows but not necessarily the area influenced by water level rise due to recharge.
- Dye tracing has confirmed which monitor wells are and are not in the flow path of recharge waters helping to improve water quality monitoring at recharge sites.
- What we've learned at a local scale: using empirical data from dye tracing, water levels and water quality provides important information for developing and monitoring individual recharge sites, and can help improve a regional or subregional model.
- The Tracing Program has prompted developing new field instruments by private industry.
- Cooperative effort between Idaho Power, IDWR, IWRB.

### AMENDED AGENDA #1 SENATE RESOURCES & ENVIRONMENT COMMITTEE 1:30 P.M.

### Room WW55 Monday, February 10, 2020

SUBJECT	DESCRIPTION	PRESENTER
MINUTES APPROVAL:	Committee approval for Minutes of the January 22, 2020 meeting.	Senator Johnson
	Committee approval for Minutes of the January 27, 2020 meeting.	Senator Guthrie
RS27498	Relating to Water; regarding the permitting and licensing of water rights.	Paul Arrington, Executive Director and general Counsel, Idaho Water Users Association
RS27592	Relating to Fish and Game; to prohibit interference with certain lands, highways and navigable streams.	Senator Martin
RS27606	Senate Concurrent Resolution to increase efforts to better understand issues contributing to the decline of Idaho's Bird Populations.	Senator Johnson
<u>S 1273</u>	Relating to Water; to remove a date restriction associated with certain water rights.	Shelley Keen, Water Allocation Bureau Chief, Department of Water Resources
<u>H 330</u>	Relating to Fish and Game; to revise fee provisions and providing an effective date.	Paul Kline, Deputy Director Programs/Policy, Idaho Department of Fish & Game

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS		COMMITTEE SECRETARY
Chairman Heider	Sen Patrick	Erin Miller
Vice Chairman Brackett	Sen Guthrie	Room: WW37
Sen Bair	Sen Stennett	Phone: 332-1323
Sen Johnson	Sen Jordan	Email: sres@senate.idaho.gov
Sen Mortimer		

### MINUTES

### SENATE RESOURCES & ENVIRONMENT COMMITTEE

**DATE:** Monday, February 10, 2020

**TIME:** 1:30 P.M.

PLACE: Room WW55

**MEMBERS** Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer,

PRESENT: Patrick, Guthrie, Stennett, and Jordan

ABSENT/ None

EXCUSED:

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with

the minutes in the committee's office until the end of the session and will then be

located on file with the minutes in the Legislative Services Library.

**CONVENED:** Chairman Heider called the meeting of the Senate Resources and Environment

Committee (Committee) to order at 1:30 p.m.

MINUTES Senator Johnson moved to approve the Minutes of January 22, 2020. Senator

**APPROVAL:** Jordan seconded the motion. The motion carried by voice vote.

Senator Guthrie moved to approve the Minutes of January 27, 2020. Senator

**Johnson** seconded the motion. The motion carried by **voice vote**.

**RS 27498** Relating to Water; regarding the permitting and licensing of water rights.

**Paul Arrington**, Executive Director and General Counsel, Idaho Water Users Association (IWUA), introduced himself and explained that this Routing Slip (RS) corrects an unintended glitch in the statute. He reported that all newly issued permits must be licensed within a development period of five years based upon proof of beneficial use. He broke down that municipal water rights utilize reasonably anticipated future needs and anticipated growth when permits are applied for. He stated this has led to uncertainty and confusion over how to license water rights before they have been fully put to use, and under this proposal water right licenses would be based on actual beneficial use. He clarified that IWUA negotiated with cities and other water groups before submitting this RS; the result of this legislation would be a more efficient and streamlined process for all involved.

MOTION: Senator Bair moved to send RS 27498 to print. Senator Jordan seconded the

motion. The motion passed by voice vote.

**RS 27592** Relating to Fish and Game; to prohibit interference with certain lands, highways

and navigable streams.

**Senator Martin** addressed the Committee and stated this RS would resolve public access disputes and maintain access to public land. He explained that wrongfully posting land as private land that is publicly accessible would have the following consequences: the first violation would be a warning from law enforcement; the second violation, if found guilty within two years of the first violation, is an infraction; and the third willful violation within two years would be a misdemeanor. He specified there were no jail time penalties associated with this RS, and it also contained a

civil remedy to resolve access disputes.

**DISCUSSION:** Senator Guthrie asked about what clear delineation would be used for public

access and what criteria would be used to issue a citation, speaking to Boise Ridge Road as an example. **Senator Martin** said he would take that into consideration

once the RS was printed.

**Senator Brackett** stated the fact that fence lines are not always on property lines so he will have to be convinced that land owners will not be prosecuted under this bill because of the "knowingly or have reason to know" portion of the RS. He advised he would need to understand what kind of protection for was available for land owners.

MOTION:

**Senator Jordan** moved to send **RS 27592** to print. **Senator Stennett** seconded the motion. The motion passed by **voice vote**, with **Senators Bair**, **Mortimer**, and **Johnson** requesting that they be recorded as voting nay.

RS 27606

Senate Concurrent Resolution to increase efforts to better understand issues contributing to the decline of Idaho's Bird Populations.

**Senator Johnson** pointed out the Concurrent Resolution would document changes in the bird population across the state, and their significant contribution to nature and Idaho's economy. He used the American Kestrel as an example and detailed some of the variables that influence population changes. He pointed out that Idaho Code § 36-103 indicates that all wildlife, including all wild birds, within the state are property of the state of Idaho. He specified that this resolution administers the policy only, it does not give any authority to enforce. Its intention is to draw attention to, and gain a better understanding of, bird population changes.

MOTION:

**Senator Guthrie** moved to send **RS 27606** to print. **Senator Bair** seconded the motion. The motion passed by **voice vote**.

S 1273

Relating to Water; to remove a date restriction associated with certain water rights.

Shelley Keen, Water Allocation Bureau Chief, Department of Water Resources, introduced himself and explained this bill eliminates an unnecessary statutory claim filing requirement for beneficial use water rights included in a water rights adjudication. Idaho Code has two claim filing requirements for water users who have established their non-domestic water rights through the diversion and beneficial use or constitutional method. He explained that water users who fail to comply shall relinquish their water rights unless they file claims in a general water rights adjudication commenced by June 30, 1988. He expounded that the 1988 date only worked for the Snake River Basin adjudication and if the 1988 date was not deleted, the statute could be interpreted that water users included in an ongoing or future adjudication would not have complied with the requirement and would have to file two claims for the same water use. He detailed that there are distinct, and often substantial, filing fees required for each type of claim. He specified that if passed this bill gives water users the opportunity to file only one claim, and pay one filing fee, for a water right. He disclosed that the Idaho Water Users Association gave a favorable vote for this bill.

MOTION:

**Senator Mortimer** moved to send **S 1273** to the floor with a **do pass** recommendation. **Senator Bair** seconded the motion. The motion passed by **voice vote**. Senator Woodward will carry the bill on the floor.

H 330

Relating to Fish and Game; to revise fee provisions and providing an effective date.

Paul Kline, Deputy Director Programs/Policy, Idaho Department of Fish and Game (IDFG), introduced himself and the other IDFG staff present who are experts: Director Ed Schriever, Scott Reinecker, Toby Boudreau, Jon Oswald, and Sal Palazzolo. He informed the Committee this bill revises Idaho Code § 36-416 to increase license, tag, and permit fees for non-residents, effective December 1, 2020. The increase includes a 10 percent increase for most non-resident fees, with larger increases for big game tags and related items such as archery and muzzleloader permits. He pointed out, importantly, that non-resident wolf tags, Disabled American Veterans (DAV) tags, and all resident license, tag, and permit fees remain the same. He addressed that this bill was brought due to concerns from

resident hunters for several years regarding the growing problem of overcrowding in general season hunts brought on by increased non-resident hunter participation, therefore IDFG has made finding relief their highest priority. He mentioned IDFG will suffer a loss of revenue, estimated at \$5.4 to \$9 million dollars annually, due to reducing non-resident participation. The intent of IDFG is to offset this expected revenue loss with this revised non-resident fee schedule, which was carefully calculated to only fill the expected gap in revenue. He stated for reference, the last non-resident fee increase was over ten years ago.

**DISCUSSION:** 

Senator Mortimer and Ed Schriever, IDFG Director, discussed at length the IDFG reserves and annual expenditures. Mr. Schriever detailed that 56 percent of the IDFG budget is generated by sales to non-residents and that IDFG is required by statute to keep 10 percent in a reserve account. They also discussed the inconsistencies in the increased amounts listed, and the fact that the three day fishing license increase was so high. Mr. Schriever explained that non-resident revenue comes in five major categories: fishing, hunting, deer tags, elk tags, and everything else combined. He illustrated that deer and elk tags are a considerable portion of income and where the majority of the revenue loss will occur; they are the highest demanded products for non-residents. He reported that in setting the three day fishing license fees, IDFG looked for what sister states charge for the same opportunity and experience, and Idaho is still near the bottom and cheapest in the west, with the new price still being behind what Montana and Arizona charge. He explained IDFG did not want to price Idaho out of the market and the fees are still competitive to draw in non-residents.

**Senator Guthrie** expressed his concern regarding the economic impact to Idaho, inquiring what negative impact may affect the economy because of this increase, and the sticker shock regarding the fee increases. **Mr. Schriever** stated the impact is yet to be seen and unknown at this time. He detailed that outfitters supported this bill and they will still receive the same number of tags they presently receive.

**Senators Brackett** and **Johnson** shared their concerns about the DAV fee being so high and why they were not singled out from the fee increase. **Mr. Schriever** clarified the DAV tag fee will not change, that currently it and the youth tag are listed on the same line and now both are separately listed, therefore DAV tags have not changed. It was reiterated that this bill is only dealing with non-resident prices specifically.

**TESTIMONY:** 

**Benn Brocksome**, representing Idaho Sportsman Alliance (ISA), spoke that the ISA has worked diligently on this legislation to provide more access and opportunity for Idaho hunters.

**MOTION:** 

**Senator Patrick** moved to send **H 330** to the floor with a **do pass** recommendation. **Senator Johnson** seconded the motion. The motion passed by **voice vote**. Senator Johnson will carry the bill on the floor.

**ADJOURNED:** 

There being no further business at this time, **Chairman Heider** adjourned the meeting at 2:23 p.m.

Senator Heider	Erin Miller
Chair	Secretary

### AGENDA

### SENATE RESOURCES & ENVIRONMENT COMMITTEE 1:30 P.M.

### Room WW55 Wednesday, February 12, 2020

SUBJECT	DESCRIPTION	PRESENTER
HONORING OF PAGE:	Ryan Telfer	Chairman Heider
MINUTES APPROVAL:	Committee approval for Minutes of the January 29, 2020 meeting.	Senator Jordan
PRESENTATIONS:	Introduction	Benjamin Davenport, Executive Director, Idaho Mining Association
	Putting America In The Driver's Seat	Trent Mell, Chief Executive Officer, First Cobalt
	The Next Generation of Phosphate Production: The JR Simplot Company's 75 Years of Making Phosphate Fertilizers in SE Idaho and Future Plans	Alan Prouty, V.P. Environmental and Regulatory Affairs, JR Simplot Company
	Integra DeLamar Mine Update	Tim Arnold, Chief Operating Officer, Integra Resources
	Jervois, Idaho Cobalt Operations Update	Floyd Varley, Chief Operating Officer, Jervois Mining
	Value In Precious Metals, Resuming Full Idaho Operations	Luke Russell, V.P. External Affairs, Hecla Mining
	Stibnite Gold Project Update	Mckinsey Lyon, V.P. External Affairs, Midas Gold
	Itafos Conda Mine Update	Tim Vedder, General Manager, Itafos Conda
HJM 11	Joint Memorial by House Resources and Conservation Committee; permitting Itafos Conda's Husky 1/North Dry Ridge project	Senator Harris

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Heider Sen Patrick
Vice Chairman Brackett Sen Guthrie
Sen Bair Sen Stennett
Sen Johnson Sen Jordan

Sen Jordan Email: sre

Sen Mortimer

COMMITTEE SECRETARY

Erin Miller Room: WW37 Phone: 332-1323

Email: sres@senate.idaho.gov

### MINUTES

### SENATE RESOURCES & ENVIRONMENT COMMITTEE

**DATE:** Wednesday, February 12, 2020

**TIME:** 1:30 P.M.

PLACE: Room WW55

**MEMBERS** Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer,

**PRESENT:** Patrick, Guthrie, Stennett, and Jordan

ABSENT/ None

**EXCUSED**:

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with

the minutes in the committee's office until the end of the session and will then be

located on file with the minutes in the Legislative Services Library.

**CONVENED:** Chairman Heider called the meeting of the Senate Resources and Environment

Committee (Committee) to order at 1:29 p.m.

**PAGE**Chairman Heider said a farewell to the Committee's Page, Ryan Telfer, and asked him what he has enjoyed about the page experience. Mr. Telfer spoke

asked him what he has enjoyed about the page experience. **Mr. Telfer** spoke of his experience and detailed what he learned while being in service to the

Committee and the Senate as a whole.

MINUTES Senator Jordan moved to approve the Minutes of January 29, 2020. Senator

**APPROVAL:** Stennett seconded the motion. The motion carried by voice vote.

**PRESENTATIONS:** Introduction of mining presentations.

**Benjamin Davenport**, Executive Director, Idaho Mining Association, introduced himself and thanked the Committee for allowing the mining industry to update them on efforts happening around the state since it is a very important Idaho industry. He detailed the diverse, robust, and abundant mineral resources in Idaho which have provided, as of 2018, approximately 10,000 direct and indirect jobs in Idaho, with approximately \$680 million in wages and \$95 million in taxes; mining is an economic driver in rural Idaho.

Putting America in the Driver's Seat

**Trent Mell**, President and Chief Executive Officer, First Cobalt, introduced himself and Governor Otter (2007-2019), a board member, and described First Cobalt's assets which have industrial and military applications. He clarified that First Cobalt is a three-year-old company created to explore Idaho's cobalt belt which is the most attractive place on the planet to explore, especially since cobalt is currently not mined in United States. He explained how First Cobalt wants to put America in the driver's seat of the electric vehicle revolution (see attachment 1).

In response to questions from the Committee, **Frank Santaguida**, Vice President Exploration, First Cobalt, described the mines, underground cobalt reserves, and detailed other critical minerals at their mining locations. He elaborated on the potential military application for battery grade cobalt and detailed the possibility of how quickly their facility could be converted in a war time situation.

The Next Generation of Phosphate Production: The JR Simplot Company's 75 Years of Making Phosphate Fertilizers in SE Idaho and Future Plans

Alan Prouty, V.P. Environmental and Regulatory Affairs, JR Simplot Company (Simplot), discussed how Simplot has been making phosphate products in Idaho for 75 years at their Pocatello facility. Since the early 1980s they have operated Smoky Canyon Mine which has an estimated lifespan of another 15 years. He stressed that Simplot is a stable employer for the local Pocatello community, and has spent decades researching to understand chemical mechanisms and changes to mining practices to address those mechanisms. Simplot has invested a lot into the mines in terms of engineering and science to make sure they are not causing problems for the future. He further detailed their other operations as well as future predictions (see attachment 2).

Integra DeLamar Mine Update

**Tim Arnold**, Chief Operating Officer, Integra Resources, introduced himself and discussed the DeLamar and Florida Mountain mines in between Silver City and Jordan Valley, which were first established in 1888. Those mines closed down in 1998 due to low precious metal prices, but have been reopened. He explained that Integra Resources is working on exploration to enhance understanding of deposits available and conducts environmental engineering and economic studies (see attachment 3).

Jervois, Idaho Cobalt Operations Update

**Floyd Varley**, Chief Operating Officer, Jervois Mining, introduced himself and explained that Jervois focuses on battery metals, mostly nickel and cobalt, and their primary focus is on Idaho as it is their most advanced property. He further detailed that Jervois is the second largest cobalt company globally that is publicly traded, operating on federal lands, and consisting of contiguous non-patented lode mining claims (see attachment 4). He expounded that Idaho has the highest deposit of cobalt outside of Africa, providing a strategic importance to the United States as the fifth largest cobalt deposit in the world.

**Senator Stennett** inquired about industry prices that caused the project to pause, and **Mr. Varley** explained that short term oversupply made the price irrational.

Value In Precious Metals, Resuming Full Idaho Operations

**Luke Russell**, V.P. External Affairs, Hecla Mining, introduced himself and explained how Hecla was headquartered in Coeur d'Alene and the oldest United States mining company still in operation, being established in 1891. Hecla supports Idahoans and is a partner in the communities where they operate, being one of the largest direct and indirect employers in Idaho and the inland northwest. He detailed that the Lucky Friday mine, having recently ratified the union workers labor agreement, will be back in full production by the end of this year. Hecla is investing in technology and innovation (see attachment 5).

### Stibnite Gold Project Update

**Mckinsey Lyon**, V.P. External Affairs, Midas Gold, introduced herself and explained the Stibnite Gold Project which started in 1899 mining for gold in Valley County, Idaho (see attachment 6). She explained that tungsten and antimony were also discovered at the mine; and during WWII, due to the war's need and their supply being so significant, their mine was credited for shortening the war by a year. She acknowledged that the area needs attention, especially ground and surface water issues which are showing elevated levels of arsenic and antimony, that are going into the river every year. Midas Gold has a two-pronged solution to clean up, and they are investing in those solutions to water quality issues. The State of Idaho has brought a solution-focused mentality to the table and Midas Gold appreciates interagency cooperation.

Itafos Conda Mine Update

**Tim Vedder**, General Manager, Itafos Conda, introduced himself and Mark Curby, Corporate Operations Officer, and detailed that Itafos is prioritizing extending the phosphate ore supply via the Husky/Dry Ridge efforts. He detailed the company's economic impact being \$367 million, and that they support a highly paid and skilled work force. He clarified Itafos' commitment to their local community and detailed their contributions to southeastern Idaho, in Caribou and Bear Lake Counties (see attachment 7).

**HJM 11** 

Joint Memorial by House Resources and Conservation Committee; permitting Itafos Conda's Husky 1/North Dry Ridge project

**Senator Mark Harris**, District 32, reported that southeastern Idaho has the best supply of phosphate. This memorial encourages that the Itafos Conda's Husky 1/North Dry Ridge project be approved in a timely manner so Itafos Conda can move forward in an opportune and cost-effective process to provide viable resources for the state of Idaho.

MOTION:

**Senator Bair** moved to send **HJM 11** to the floor with a **do pass** recommendation. **Vice Chairman Brackett** seconded the motion. The motion passed by **voice vote**. Senator Harris will carry the bill on the floor.

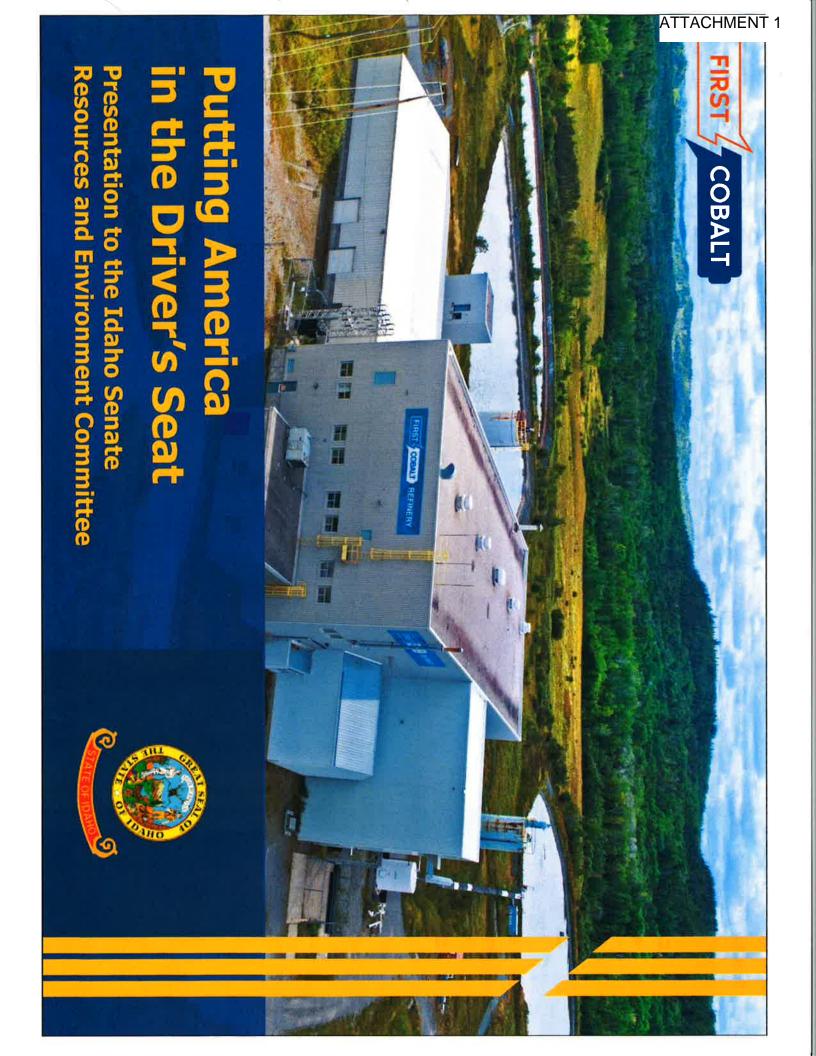
PRESENTATION:

**Governor Otter** spoke to the Committee about his contribution as a board member to First Cobalt and Integra Resources. He explained the exciting work the companies are doing in Owyhee County. He expressed his interest in the subsurface wealth of the nation and its ability to pay off the national deficit, maintaining that Idaho can play a major role.

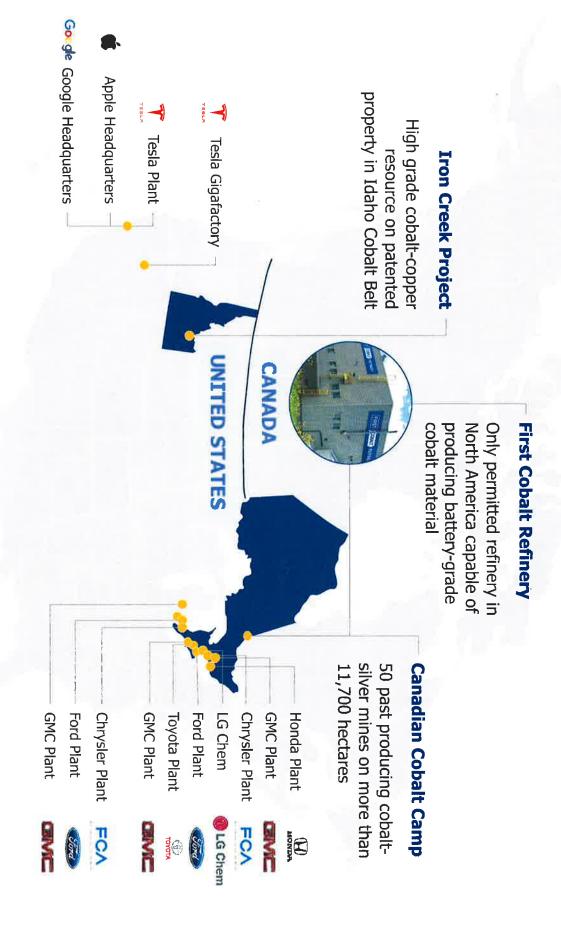
ADJOURNED:

There being no further business at this time, **Chairman Heider** adjourned the meeting at 2:57 p.m.

 Senator Heider	Erin Miller
Chair	Secretary



## FIRST COBALT ASSETS





# **AMERICA'S VULNERABILITY**

100% Reliant on Imports of Cobalt Sulfate for Lithium-ion Batteries

01

Majority of cobalt is mined in Africa, largely under Chinese control

02

Most African production is then exported to China for refining

03

China poised to control 80% of cobalt sulfate market<sup>1</sup>

04

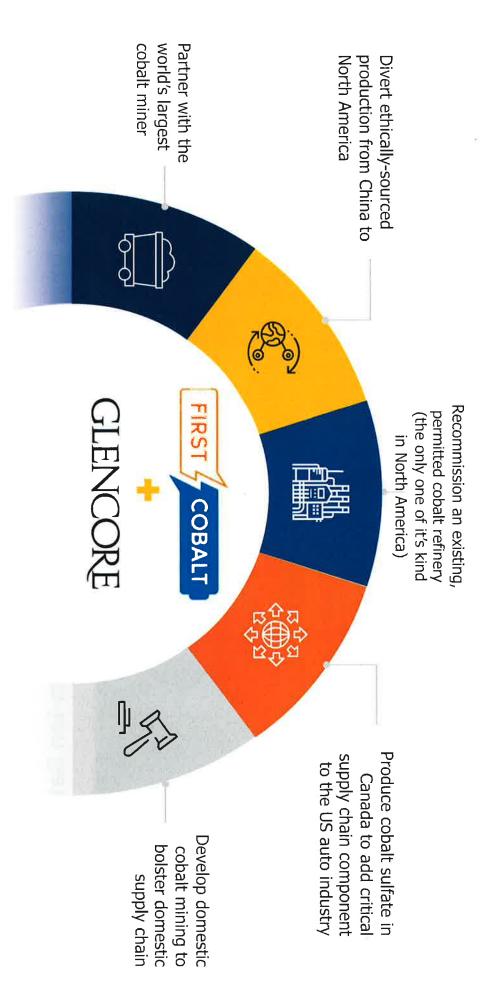
No significant cobalt production in North America for several years

1. Source: Benchmark Mineral Intelligence



# FIRST COBALT HAS THE SOLUTION

# An Emerging North American Champion, Competing on the Global Stage





# **NORTH AMERICA'S ONLY PRIMARY COBALT REFINERY**

- Hydrometallurgical cobalt refinery located in Ontario, Canada
- Uniquely positioned to supply North American auto markets







Commissioned in 1996 and on care and maintenance since 2015



See Ausenco scoping study, available on our website

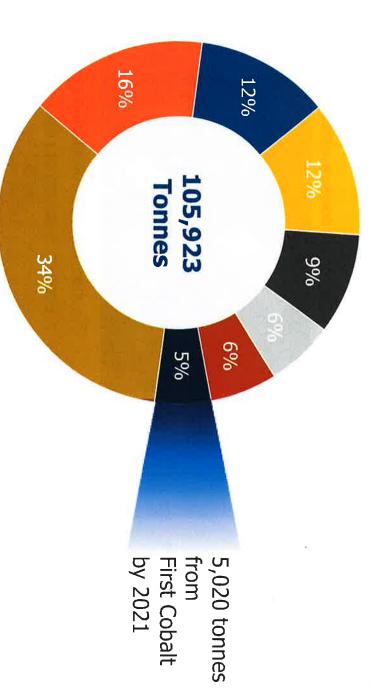
COBALT



## POTENTIAL MARKET SHARE

First Cobalt could become the fourth largest cobalt refiner outside China

- Zhejiang Huayou Cobalt
- Jinchuan Group
- Freeport Cobalt
- Shenzhen GEM
- Chambishi (ERG)
- Glencore
- First Cobalt
- Other



## **IDAHO COBALT BELT**

### cobalt resource in U.S. **Idaho: Largest unmined**

- District hosts primary cobalt deposits
- Includes former producing Blackbird Mine (1902-1968)
- Idaho has a long mining history, including silver and phosphate

### DAHO

### **IRON CREEK PROJECT**

42km

from town of Salmon in Lehmi County

1,700 acres

7 mining patents surrounded by 83 claims



## RISKS AND OPPOTUNITIES

Idaho has a rich mining history and is geologically 'blessed' with a mineral-rich belt containing primary cobalt deposits

Path to commercialization impeded as Idaho Cobalt Belt is under US Forest Service Jurisdiction

 Permitting challenges and delays dampens investor appetite

Wilderness Inventory & Evaluation Designation of the Salmon-Challis National Forest (ongoing)

- Expressly excluded from 1980 Frank-Church-River of No Return Wilderness Area due to cobalt endowment
- Contradicts President's Executive Order 13817 directing federal agencies to reduce the Nation's vulnerability foreign critical minerals

University of Idaho preliminary report (Jan 2020) notes #1 concern as further loss of employment opportunities in mining, timber harvest, livestock grazing sectors



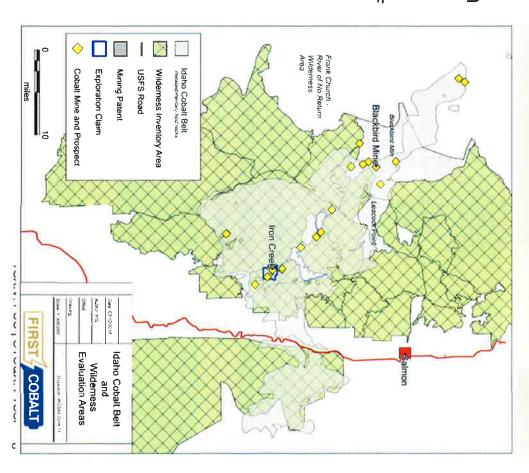




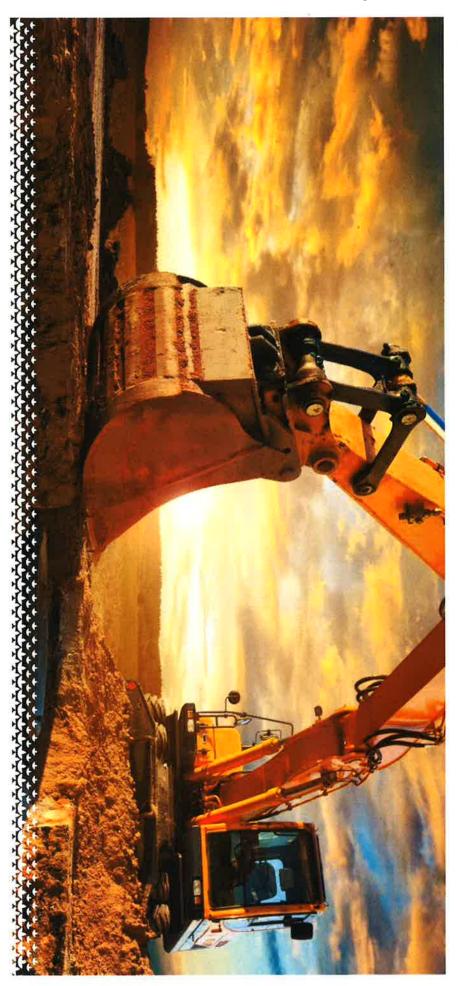
### U.S. FOREST SERVICE

Caring for the land and serving people

United States Department of Agriculture



FIRST / COBALT FIRSTCOBALT.COM TSX.V: FCC | OTCQX: FTSSF Thank you! 6 6



# The Next Generation of Phosphate

fertilizers in SE Idaho and future plans The J.R. Simplot's Company 75 years of making phosphate



### Alan L. Prouty Vice President, Environmental & Regulatory Affairs J.R. Simplot Co.

alan.prouty@simplot.com

### **Education and Experience**

M.Sc.: Forest Products
University of Idaho, College of Forestry,
Wildlife and Range Sciences
(College of Natural Resources)

B.Sc.: Chemistry Idaho State University

Vice President, Environmental & Regulatory Affairs

J.R. Simplot Company (2001-present)

Environmental Engineering Manager Potlatch Corp. (1995-2001)

Chemist/Sr. Environmental Engineer James River Corp (1987-1995)

Process Analyst Wastewater Division, City of Pullman, WA (1984-1987)

Helitack/Fire & Aviation Management U.S. Forest Service: Payette & Nez Perce National Forests (1979-1983 – seasonal)

### Public Affairs and Association Activities

Idaho National Forest Roadless Commission (2009-Present) Appointed by Governor Otter

Federal Advisory Committee – Bureau of Land Management (2017-2019)
Appointed by Interior Secretary Jewell for eastern Idaho

Treasure Valley Air Quality Commission (2005-2014)
Appointed by Governor Kempthorne

College of Natural Resources Advisory Board, University of Idaho. (2016-present)
Board, Chair

Idaho Association of Commerce and Industry (2003-2006, 2008-present)

Chair, Environmental Committee

Idaho Mining Association (2018-present)
President, Board

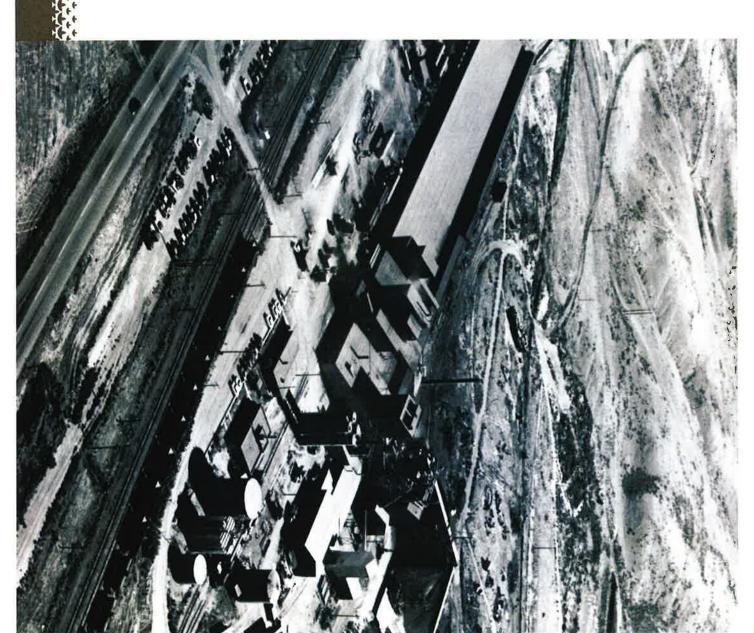
Food Northwest (2007-2012, 2017-present) Chair of Environmental Committee, Board

National Mining Association (2017-present)
Board

Board Northwest Pulp and Paper Association (1996-2000)

### 75 years of phosphate production in SE Idaho.

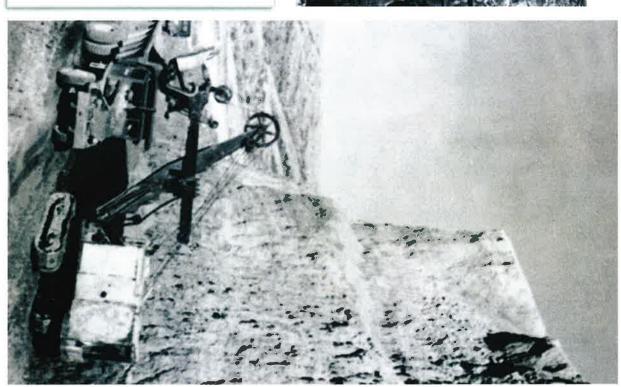
Simplot began operation in 1944 of a basic phosphate fertilizer plant just to the west of Pocatello.



#### Early Phosphate Mining

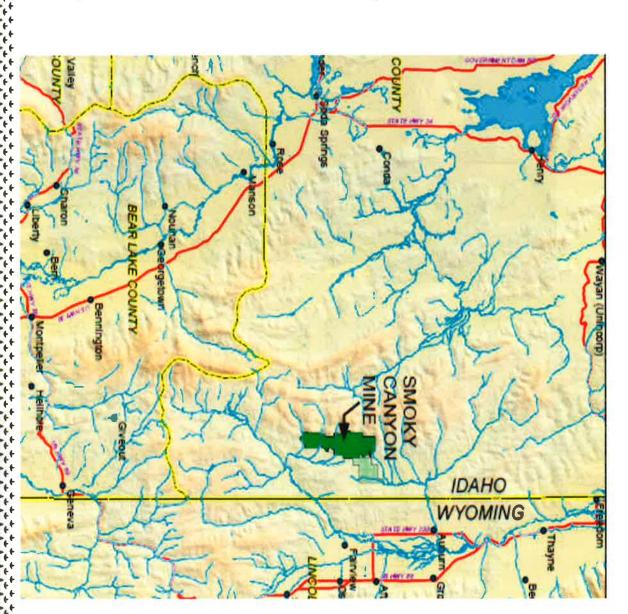


- Ore came from Gay Mine beginning in 1946; began joint mining with FMC in 1949.
- Anaconda Copper Mining Co. began underground mining at Conda in the 1920's. Simplot acquired and began open pit mining in 1959.



### SMOKY

- Began mining in 1983 on U.S. Forest Service surface.
- Estimated 15 years of mine life remaining.
- Permitting:
- 3 Env Impact Statements
- 1 Supplemental Env Impact Statements
- Over \$100 million in financial assurance for reclamation.



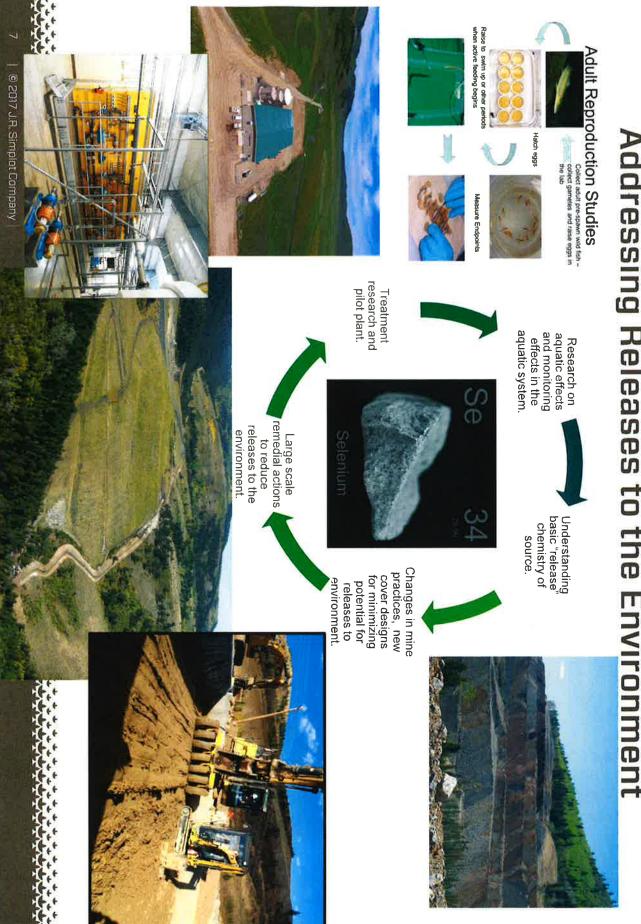
# SMOKY CANYON MINE



- 255 employees at mine
- Average salary at the mine is \$98,700, including benefits
- Annual payroll of ~\$25,100,000
- Sole source of phosphate ore to the Don Plant
- 374 employees at Don Plant
- Average salary at the plant is \$95,800, including benefits
- Don Plant annual payroll ~\$36,000,000
- Local tax payments of \$3,322,000

# **ENVIRONMENTAL PROTECTION**

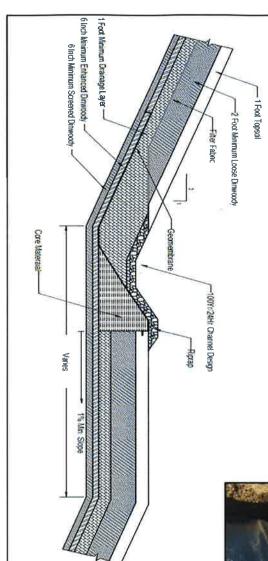




### State of the Art Reclamation Cover **ENVIRONMENTAL PROTECTION**

- "Enhanced Dinwoody"
- Synthetic lined drainage ditches
- Bentonite enhanced barrier layer
- Limits infiltration by over 90%

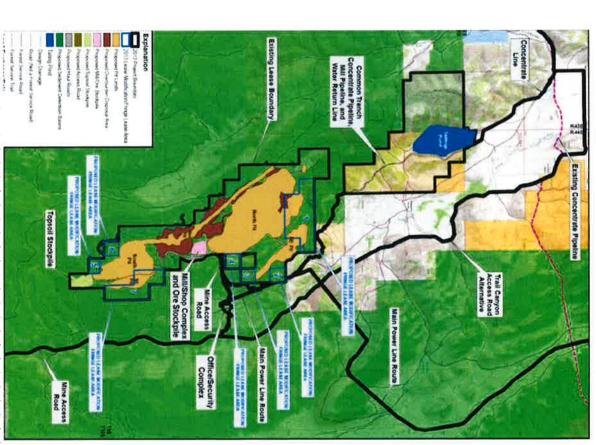


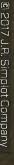




# PROPOSED DAIRY SYNCLINE MINE

- ~ 30 years of ore
- New mine, mill and tailings impoundment.
- Net gain of 420 acres of public land through USFS land exchange and BLM land sale.
- Sage grouse mitigation.
- \$380,000 in monetary mitigation to the USFS for forest restoration.
- Investment in recreation equipment.
- Over 25 acres of wetland mitigation at Trail Creek
- Record of Decision is expected in March 2020.









# Looking forward to another 75 years of phosphate mining and production in eastern Idaho



Bringing Earth's Resources to Life

# FEDERAL PHOSPHATE MINING HISTORY

### The Western Phosphate Reserve

protect the western phosphate resources from foreign acquisition. The eastern phosphate deposits in recognized that domestic sources of phosphate for domestic fertilizer manufacture and use was vital to One of the underlying and fundamental reasons for the need for executive withdrawal powers was to (principally German) the development of this country, and that we should not be dependant on European suppliers that ore was being exported for the use of European farmers (Brunelle, 1978). It was widely Tennessee and the Carolinas were owned or controlled by European companies and most, if not all, of



Prospect Trench, date unknown, USGS Photo Library,

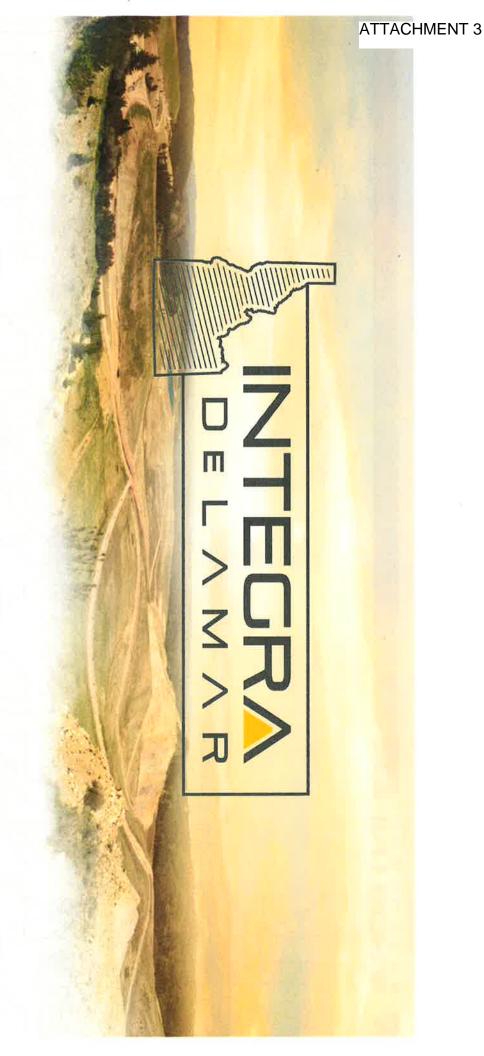


phosphate in Southeast Idaho 1927; G.R. Mansfield maps significant deposits of

1946 USGS studies the stratigraphy of the Phosphoria

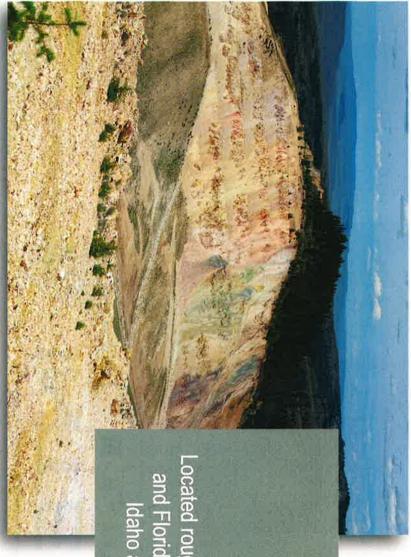
~1950 BLM issues phosphate leases on federal land in SE

President Taf



February 12, 2020

#### DeLamar Project



Integra's focus is developing the historic DeLamar and Florida Mountain mines.

Located roughly 100 miles from Idaho's Capital City, the DeLamar and Florida Mountain deposits sit between historic Silver City, Idaho and the ranching town of Jordan Valley, Oregon.





1888: Historic DeLamar and Florida Mountain Mines were established.

1891: Owner, Joseph DeLamar served as a state senator in Idaho's first ever legislature.

1998: Closed due to low precious metal prices, but now lives again.

Over the course of its 1 1.6 million ounces of gold and 100 million ounces of silver. 110 years of operation, the DeLamar Mine produced







Jobs

For every 1 mining job there will be 2 support jobs.

Integra DeLamar plans to hire more than 300 people at the mine and will contract more than 650 support staff.

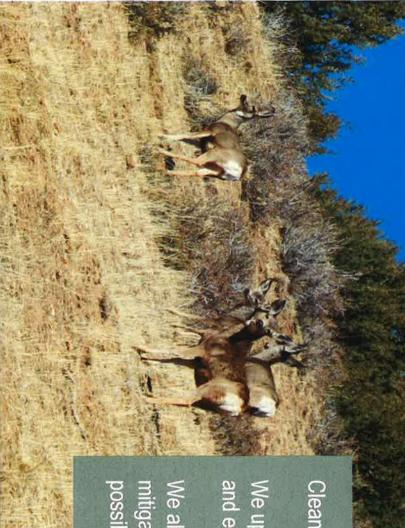
The average wage will be upwards of \$85,000 annually.





The current plan is to produce over 1.2 million ounces of gold

Millions of dollars in taxes over the life of the mine.



Clean air, water and soil are important to all of us.

and environmental regulations. We uphold industry best practices and strictly adhere to safety

We always assess potential impacts and identify ways to possible. mitigate our environmental footprint to ensure it is as small as



#### Community

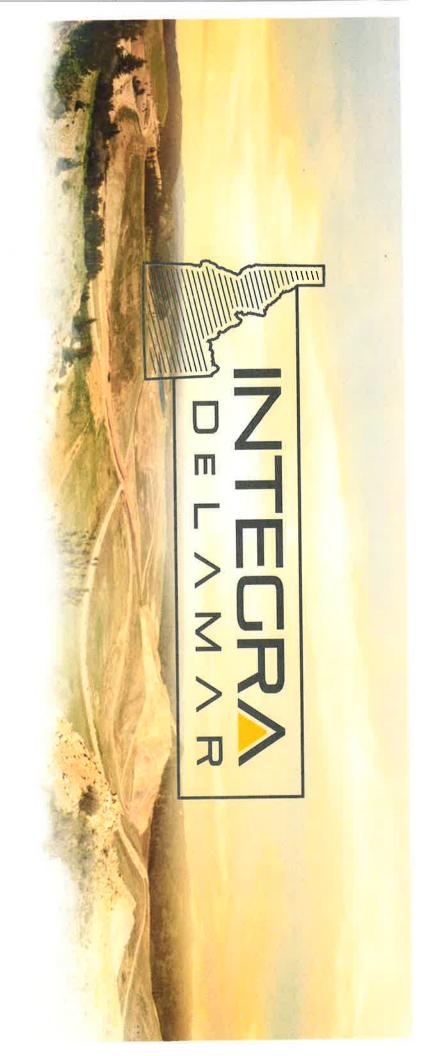


serve. We believe in: We could not be who we are today without the communities we

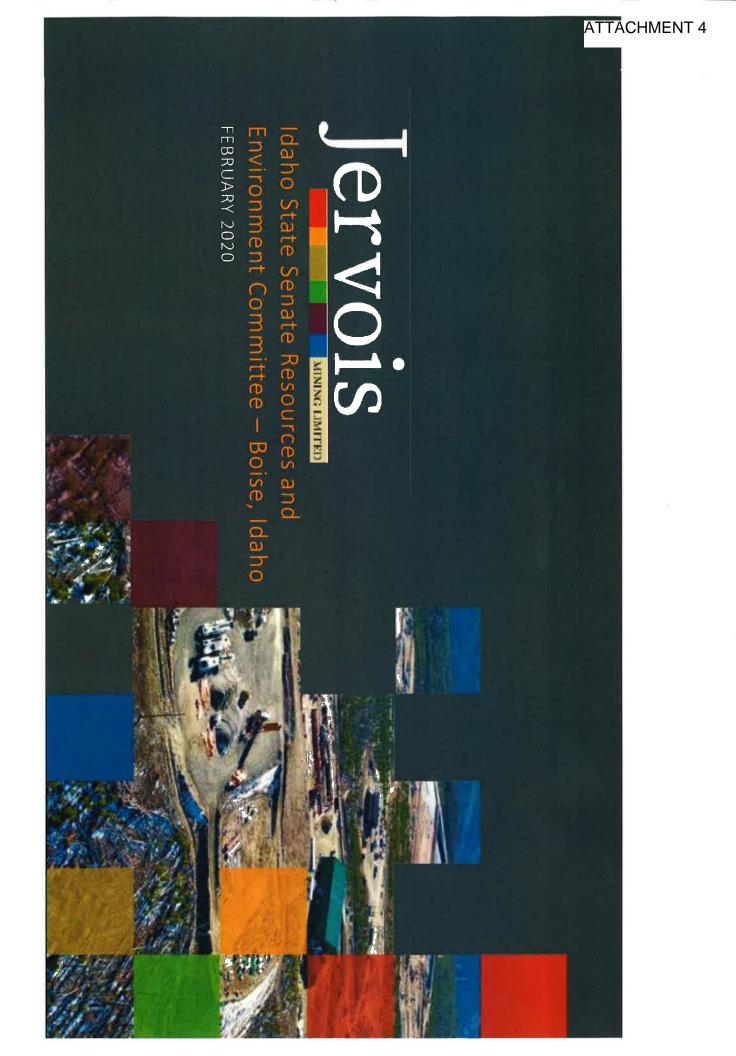
- Transparency
- Open communication
- Giving back
- Engagement

are a part of, and they know they can rely on us. We rely on the hardworking people in the communities that we





Questions?



#### DISCLAIMER

#### Competent Persons

has sufficient experience which is relevant to the style of mineralisation and type of deposit under consideration and to the activity which they are undertaking to qualify as a Competent Person as defined in the 2012 Edition of the The information in this release that relates to Mineral Resources is based on information compiled by David Selfe who is a full-time employee of the company and a Fellow of the Australasian Institute of Mining and Metallurgy. David Selfe Australasian Code for Reporting of Exploration Results, Mineral Resources and Ore Reserves'. David Selfe consents to the inclusion in the release of the matters based on their information in the form and context in which it appears

The technical content of this news release, as it relates to operations in Uganda, has been reviewed and approved by Dean Besserer, P.Geol., who is General Manager - Exploration for the company and a member of The Association of Professional Engineers and Geoscientists of Alberta, Canada and a qualified person as defined by National Instrument 43-101.

The technical content of this news release, as it relates to the Idaho Cobalt Operations, has been reviewed and approved by Floyd Varley, P.Eng COO of the Company and a qualified person as defined by National Instrument 43-101

#### Forward Looking Statements

the Company's control. Actual results and developments may differ materially from those expressed or implied. The Company has not audited or investigated the accuracy or completeness of the information, statements or opinions in this accuracy of any forecasts, projections or other forward looking information contained or referred to in this presentation. the authenticity, validity, accuracy, suitability or completeness of, any errors in or omission from any information statement or opinion contained in this presentation and without prejudice to the generality of the forgoing the achievement or This presentation contains forecasts, projections, and forward-looking information. Such forecasts, projections and information are not a guarantee of future performance and involve unknown risks and uncertainties, many of which are out of which are out of the presentation contains forecasts, projections and involve unknown risks and uncertainties, many of which are out of the presentation contains forecasts, projections, and forward-looking information. Such forecasts, projections and information are not a guarantee of future performance and involve unknown risks and uncertainties, many of which are out of the presentation of the present presentation. To the maximum extent permitted by applicable laws the Company makes no representation and can give no assurance, guarantee or warranty, expressed or implied as to and takes no responsibility and assumes no liability for

opinions contained in this presentation before making any investment decision. You should not act in reliance on this presentation material. You should conduct your own investigation and perform your own analysis in order to satisfy yourself as to the accuracy and completeness of the information, statements and

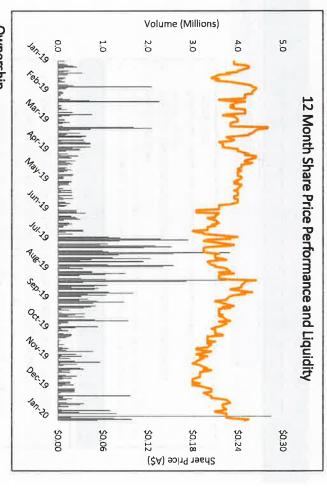
### ASX Announcements referred to in this Presentation

- 24 May 2019 "Positive Preliminary Economic Assessment for Nico Young and M2 Cobalt Merger Update"
- 21 June 2019 "Notice of General Meeting and Explanatory Statement"
- 24 June 2019 "Jervois Mining progresses Ugandan exploration"
- 9 September 2019 "Jervois Mining receives rock chip results from Kilembe Area, Uganda"
- 15 October 2019 "Jervois update on drilling at Idaho Cobalt Operations, USA"
  15 October 2019 "Jervois Mining receives Phase 1 Drill Results Hannda"
- 15 October 2019 "Jervois Mining receives Phase 1 Drill Results, Uganda'
- 2 December 2019 "Jervois drilling results from Idaho Cobalt Operations"
- 22 January 2020 "Jervois Mining Increase of contained Idaho Measured cobalt resource by 22%" 22 January 2020 "Jervois Mining 2019 Drill Programme, Uganda"

have not materially changed In accordance with listing rule 5.23.2, the company confirms it is not aware of any new information or data that materially affects the information included in the relevant market announcement referred to above and that in to apply and

### JERVOIS CORPORATE REVIEW

CAPITAL STRUCTURE (1)	RE (1)
	AMOUNT
Total issued shares	641.63m
Options / warrants	99.32m
Share price	A\$0.25
Market cap (fully diluted)	A\$185.24m
Cash	A\$12.40m

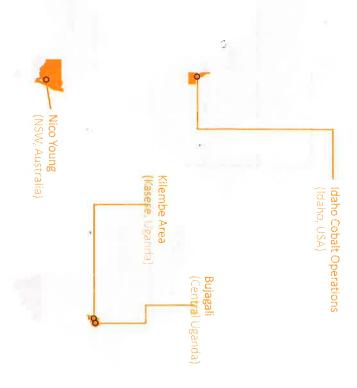


#### Ownership

Listings	Board and Management	Top 20 Shareholders	Substantial Holders	
ASX (JRV); TSX-V (JRV)	4.0% (11.8% diluted)	41.3%	Australian Super 5.9%	

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# GLOBAL SUPPLIER OF BATTERY METALS



#### Idaho Cobalt Operations

- Partially constructed mine near Salmon, Idaho in the USA
- Fully environmentally permitted
- 0.69% Cu<sup>(1)</sup>; +1.57Mt inferred resource @ 0.35% Co and 0.44 43-101 compliant M+I resource of 5.24Mt @ 0.44% Co and Cu<sup>(1)</sup>); at 0.15%Co cut-off
- C\$135 MM spent to date on project
- Updated Feasibility Study underway 2019 drilling complete

#### Kilembe Area / Bujagali

- 100% ownership, exploration-stage assets located in Uganda
- Kilembe Area (6 EL's) & Bujagali (5 EL's)
- Up to 2.5% Co, 37.8% Cu, 40.1 g/t Au in rock samples (2)
- Both properties are at target drilling stage and have strong

#### Nico Young

- New South Wales, Australia, 100% ownership, no private royalties
- and 0.05% Co(3) JORC compliant indicated & inferred resources of 93.3Mt at 0.63% Ni
- Positive Preliminary Economic Assessment completed in 1H 2019
- operations Potential to be one of Australia's largest nickel-cobalt

## Geographic and asset diversification through a global strategy

Jervois

MINING LIMITED

### JERVOIS BOARD OF DIRECTORS

#### Peter Johnston

#### Non-Executive Chairman

- Recognized as one of Australia's leading mining executives and **Board Directors**
- Prior to joining Jervois, Interim CEO of Tronox Ltd (US\$2.25 billion TiO2 business) and head of Global Nickel Assets for Glencore

#### Mike Callahan

#### **Non-Executive Director**

- Ex CEO eCobalt Solutions
- Former VP of Corporate Development & President of Hecla's Venezuelan mining operations



#### CEO, Executive Director **Bryce Crocker**

- Joined Xstrata plc at IPO in mid 2002, ex banker
- Past nickel/cobalt roles within the nickel division at Xstrata plc include VP and Head Strategy, Marketing and Research, GM and Head Business Development

#### Non-Executive Director **Brian Kennedy**

- Managed Kambalda and Mt Keith for WMC, Murrin Murrin for Glencore
- Extensive African and nickel / base metal construction and operations

Jervois

MINING LIMITED

### JERVOIS MANAGEMENT TEAM

#### General Counsel / EGM - Legal

- in 2016 (joined in 2013) Former General Counsel of Glencore plc, retiring
- Previously had a successful 20-year career lawyer at leading as a Canadian M&A

#### **EGM - Technical Services** Michael Rodriguez

- Previous employers include WMC and Glencore
- 30+ years of international construction of hydro- and experience in design and pyro- metallurgical plants

#### **EGM - Corporate Affairs** Simon Clarke

- Director M2 Cobalt Ex CEO and Executive
- Co-founder of OSUM Oil Sands and former RailPower Technologies Executive VP of

#### **Group Controller** Cameron Knox

- 35+ years experience in
- Ex VP Operations and Mine GM at Yukon Zinc
- COO / EGM Operations

Floyd Varley

- management in Canada and the US mine operations
- 15+ years' experience in resources focus finance and accounting with
- Previously CFO for Laguna Gold Group and Nyrstar Australia roles with Citadel Resources Coal, also held senior finance and Controller at Tigers Realm

#### **Uganda Country Head** lennifer Hinton

Mining Engineering 15 years in Uganda, Ph.D

Former adviser to UN and

World Bank

 Extensive Ugandan operational experience

lawyer

#### **Group Manager Geology David Selfe**

**Uganda Operations Manager** 

Co-founder of Goldgroup

Mining Inc. and Director of

Uzhuralzoloto in Russia,

Thomas Lamb

- 20+ years experience in Africa Australia, Indonesia and nickel-copper-cobalt across
- Ex Glencore at Murrin Murrin

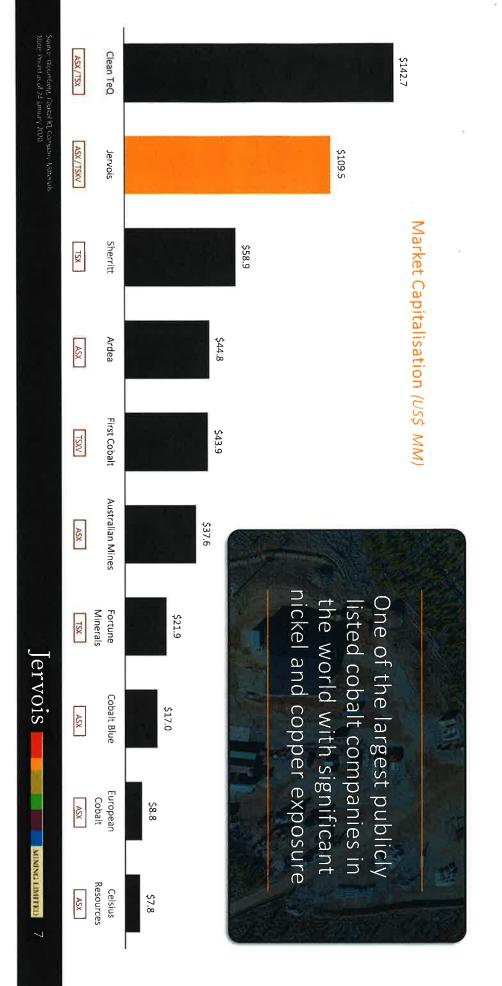
#### **GM Exploration Dean Besserer**

- countries including across experience in over 50 20+ years of exploration most of Africa
- Formerly Managing Director of APEX Geoscience Ltd.

#### GM Commercial / Co Sec Alwyn Davey

- +18 years' experience as Company Secretary
- Former member of the Cambrian Mining Plc and Nonexecutive committee of Energybuild Group Plc **Executive Director of**

# JERVOIS IS ONE OF THE LARGEST COBALT COMPANIES GLOBALLY



# OPERATIONS Jervois

# IDAHO COBALT OPERATIONS ("ICO")

100% owned by Jervois, no private royalties

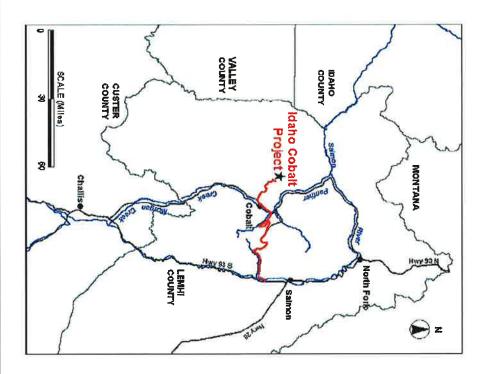
- High grade cobalt-copper deposit and a partially completed mine site
- Fully-environmentally permitted (approved Plan of Operations)
- Located near the town of Salmon, Idaho, USA
- Largest NI 43 -101 compliant cobalt resource in the USA
- 5.24Mt M+I resource @ 0.44% Co and 0.69% Cu<sup>(1)</sup>
- +1.57Mt Inf. resources @ 0.35% Co and 0.44% Cu<sup>(1)</sup>
- Deposit open along strike and at depth
- ICO de-risked through investment of over C\$135 MM todate (over the last 20 years) in expenditure
- Existing surface infrastructure includes water management ponds and treatment plant, power systems (substation and power lines), control wells, haul roads

#### Asset Location



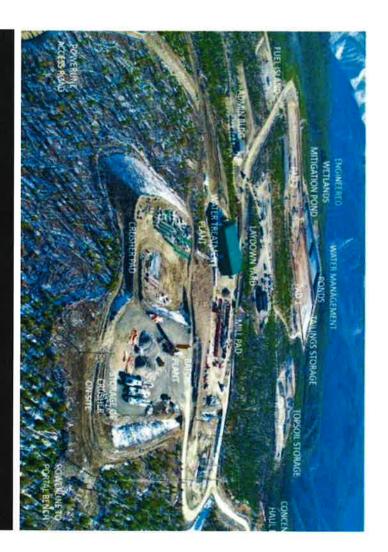
### ICO: LOCATION

- ICO is located in heart of the Idaho Cobalt Belt, a unique mineral rich, prolific metallogenic district unique to North America
- Idaho is a mining friendly state and has historically produced
   >2Mt of cobalt ore from the early 1900's through to the 1960's
- Proximity to nearby towns and infrastructure
- Salmon (pop. ~3,000) to Blackfoot (pop. ~12,000): 188 miles
- Blackfoot to Pocatello (pop. ~54,000): 25 miles
- Blackfoot to Idaho Falls (pop. ~59,000): 29 miles



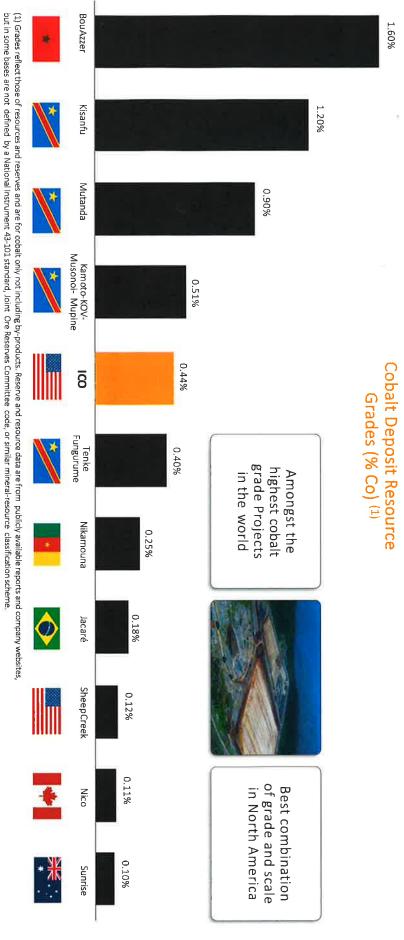
### ICO: DE-RISKING

- Growth potential through extensional and lateral drilling into footwall and other on lease targets
- Current resource/reserve estimate is entirely contained within the Ram Deposit, which accounts for ~7% of the 5,990 acre land package
- The Ram deposit remains open along strike and at depth, with additional expansion potential in the Sunshine and East Sunshine deposits
- Aside from recent intersections<sup>(1)</sup> footwall of Ram deposit largely untested potential lode repetitions for resource upside
- Successful 2019 drill program provides confidence



DE-RISKED PROJECT WITH SIGNIFICANT INVESTMENT IN INFRASTRUCTURE

# ICO: GRADE BENCHMARKING



# ICO: UPDATED RESOURCE MODEL

- Increased Measured classification up 22% contained Cobalt from previous 2018 model
- Construction of 3D geology and structural model improves geological understanding of connection to adjacent Blackbird mine sequence
- Updated Resource model cell size, orientation and estimation improves capture and preservation of
- Model improvements to translate into improved mine design and stope scheduling

high grades above 0.6% Co

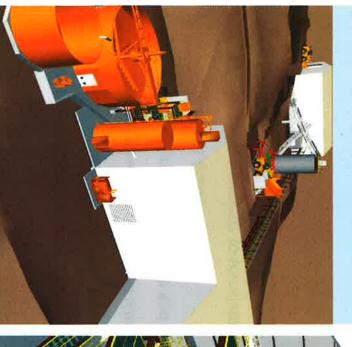
- Resource re-stated at lower cutoff of 0.15% Co:
- Meas + Ind: 5.24Mt @ 0.44% Co, 0.69% Cu, 0.53g/t Au
- Plus Inf. 1.57Mt @ 0.35% Co, 0.44% Cu and 0.45g/t Au

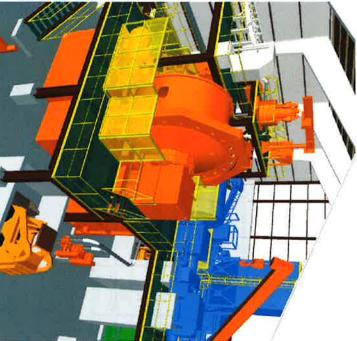
Table 1: 2020 Updated MRE for ICO using 0.15% Co cut-off

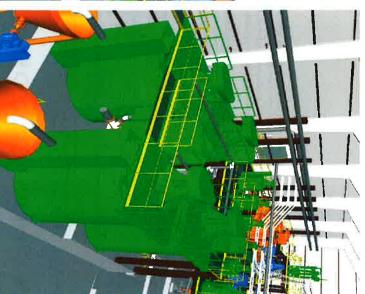
Inf	Σ.	lnc	Z		
Inferred <sup>izi</sup>	н	Indicated <sup>(i)</sup>	Measurediii		Category
1.73	5.77	2.85	2.92	(M Tons)	Resource
1.57	5.24	2.59	2.65	(M tonnes)	Resource
0.35	0.44	0.42	0.45		Co (%)
12.0	50.1	23.8	26.2	(M lbs)	60
0.44	0.69	0.80	0.59		Cu (%)
15.2	80.1	45.7	34.4	(M lbs)	Сп
0.013	0.015	0.018	0.013	(oz/Ton)	Αu
0.45	0.53	0.62	0.45	(g/tonne)	Au
23,000	89,000	51,000	38,000	(oz)	Αu

- Mineral Resources are not Mineral Reserves and by definition do not have demonstrated economic viability. The Mineral Resources in this news release were estimated using the Canadian institute of Mining, Metallurgy and Petroleum (CIM), CIM Standards on Mineral Resources and Reserves, Definitions and Guidelines prepared by the CIM Standing Committee on Reserve Definitions and adopted by CIM Council (2014).
- This MRE includes Inferred Mineral Resources that are normally considered too speculative geologically to have economic
  considerations applied to them and must not be converted to a Mineral Reserve. It is reasonably expected that the majority of the
  Inferred Mineral Resources could be upgraded to Indicated Mineral Resources with continued exploration.
- The Cobalt cut-off grade for inclusion in the resource is 0.15%, no consideration of copper or gold content was used in determination of cut-off grade.

### ICO: PROCESS PLANT MODEL

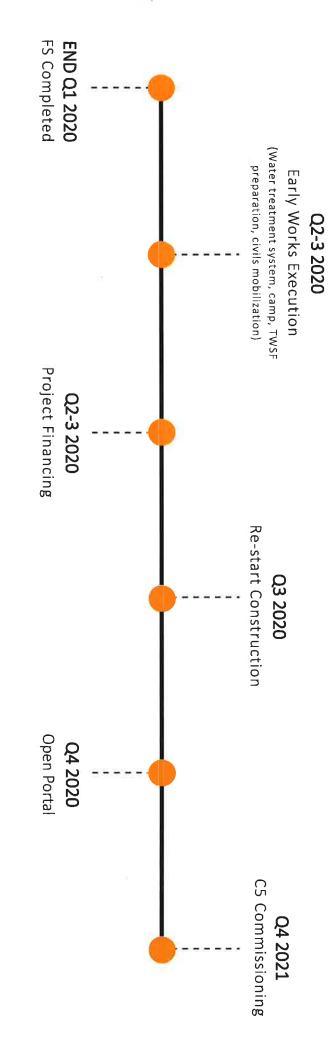






Process plant lay out and construction model designed using existing equipment and site terracing

## ICO: DEVELOPMENT SCHEDULE



### ICO: FUTURE REFINERY

- Wood ICO refinery scoping study engineer
- Study will review commercially demonstrated technology for processing sulphide con through to 99.8% LMB grade refined metal
- Processing of third party and recycled cobalt products – strategic to USA
- Mine will commission based on export of concentrate (no potential USA customers) Jervois has confidence that ICO mineral resource will ultimately support a refinery

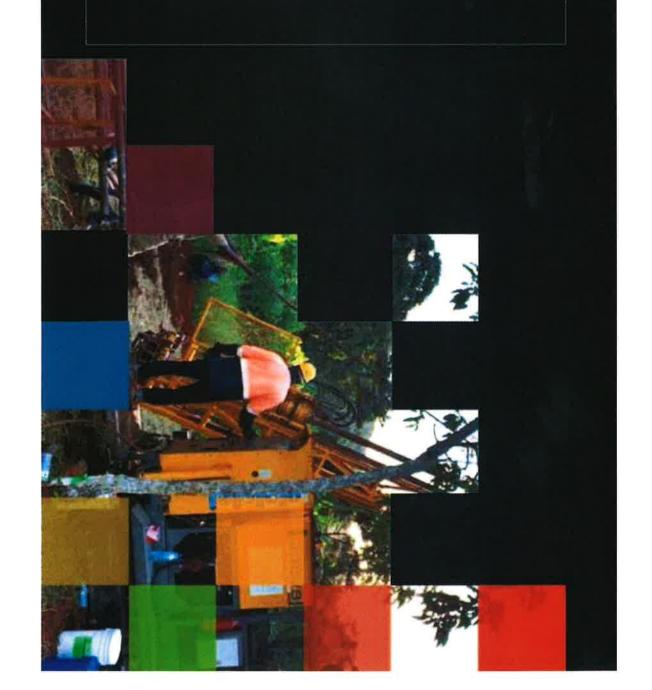


#### CONTACTS

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Floyd Varley
Chief Operating Officer
fvarley@jervoismining.com
(T) + 1 416 986 1501



## COMPANY

Value in Precious Metals
Resuming Full Idaho Operations

February 2020

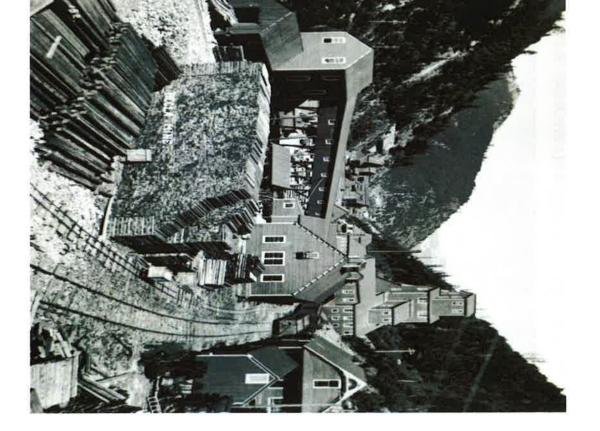




RESPONSIBLE. SAFE. INNOVATIVE.

## Who is Hecla? Oldest US Mining Company

- Headquartered in Coeur d'Alene
- Established in 1891, Hecla is >129 years old
- Oldest mining company in US and oldest mining company on NYSE
- Oldest publicly traded company in Idaho
- Owned and operated Lucky Friday since 1958, current mine life 20+ years
- One of the largest direct and indirect employers in Idaho and the Inland Northwest



# HECLA HAS FUNDAMENTAL VALUE



Long-lived, low cost North American assets are overcoming challenges

Characteristics are unique among peers

**Asset Overview** 

- Largest primary silver producer in the US, third largest producer of lead and zinc with proven track
- Best mining jurisdictions: Alaska, Quebec, Idaho Nevada, and Durango (Mexico)
- Mine lives are long: most mines have 10+ year lives
- Low-cost, high-margin
- Brand value of Hecla equity having been among the best performing NYSE stocks multiple times



Established miner, proven operational track record, with assets in mining friendly jurisdictions in North America

NYSE: HL

# GREENS CREEK: STRONG PRODUCTION, CASH FLOW

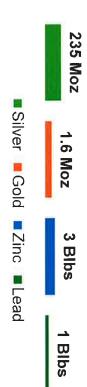
# Realizing higher grades; expected to continue in 2020



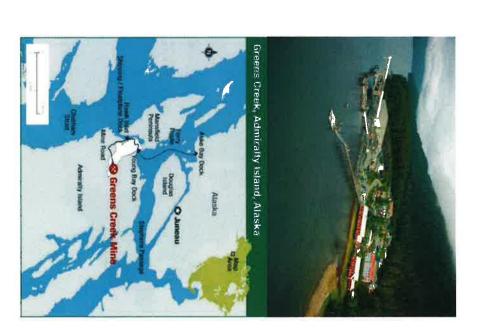


Ozi	Q4 2019	2019	2020E4
Silver Production (Moz)	2.7	9.9	8.9 – 9.3
Gold Production (Koz)	15.4	56.6	46 – 48
Cost of Sales <sup>2</sup>	\$71.5 M	\$211.7 M	\$220 M
Cash cost, after by-product credits, per silver oz <sup>2</sup>	\$2.76/oz	\$1.97/oz	\$4.25-\$5.00/oz
AISC, after by-product Credits, per silver oz³	\$7.86/oz	\$5.99/oz	\$8.50-\$9.75/oz

## **Metal Produced Over Past 30 Years**







## **LUCKY FRIDAY**

## 75+ Year Old Mine - Positioned for Growth







Higgsin Lt	
Shaft Bc 9,587 fee The Botto	
Shaft Bottom Station 8620L 9.587 feet below the Surface The Bottom, on our way up!	
t Project 1 8620L Surface way up!	
d Commentation	
1	
NO PERSONAL PROPERTY.	HALL STATE OF THE

T		Spokens	Samdp	*		Lucky Frid
1	Mulla	9	it.	Idaho	3	Lucky Friday, Mullan, Idaho
		9		Montana	British Columbia	Idaho
	Lucky Friday Mine			>	bia	
Missoula	5		Callspell			

Union workers ratified Lucky Friday Labor Agreement.

Return to full production expected by year end.

M+I Resources

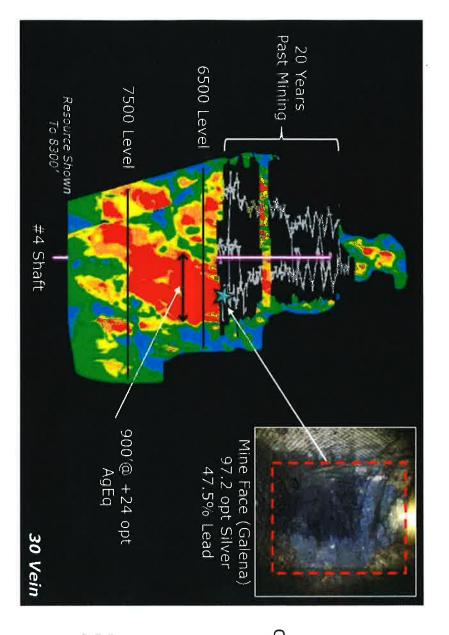
2P Reserves

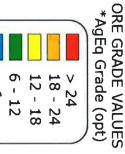
81 Moz silver @ 14.4 oz/t Ag 77.4 Moz silver @ 7.7 oz/t Ag

# **LUCKY FRIDAY GRADE INCREASING AT DEPTH**

historic production Eventually expect 60% more annual silver production compared to







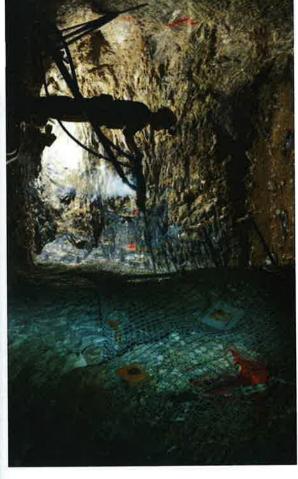
\*Ag Equivalent Values Based Upon: Resource Prices \$20.00/oz Ag, \$0.90/lb %b, \$0.90/lb Zn

Dec. 31, 2015

## Technological Innovation Continues to Change the Industry

MINING COMPANY









NYSE: HL

## **LUCKY FRIDAY: SAFETY AND ENVIRONMENTAL FOCUSED** Continuous mechanical cutting undergoing test mining in Sweden



# To be sent to Lucky Friday upon completion of testing

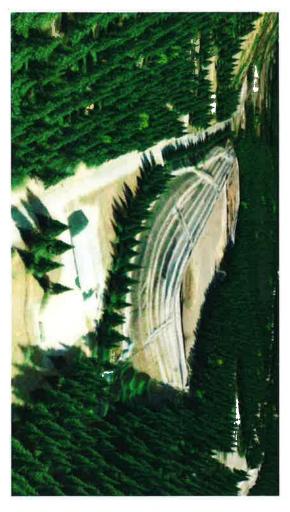


- 2018 Sentinels of Safety winner for excellent safety record
- 2019 Pollution Preventor Award by the State of Idaho

# CONCURRENT RECLAMATION

# Advancing Tailings Pond 3 With State of Idaho



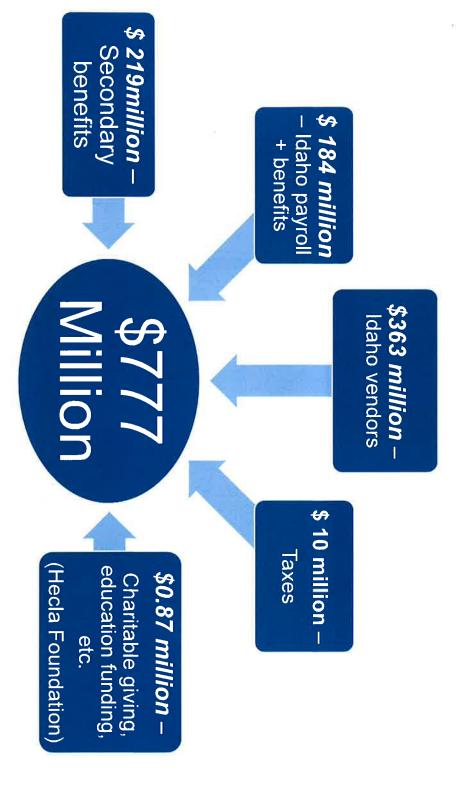




# LUCKY FRIDAY ECONOMIC BENEFIT

# **5 YEAR BENEFIT BEFORE STRIKE SIGNIFICANT IN RURAL IDAHO**



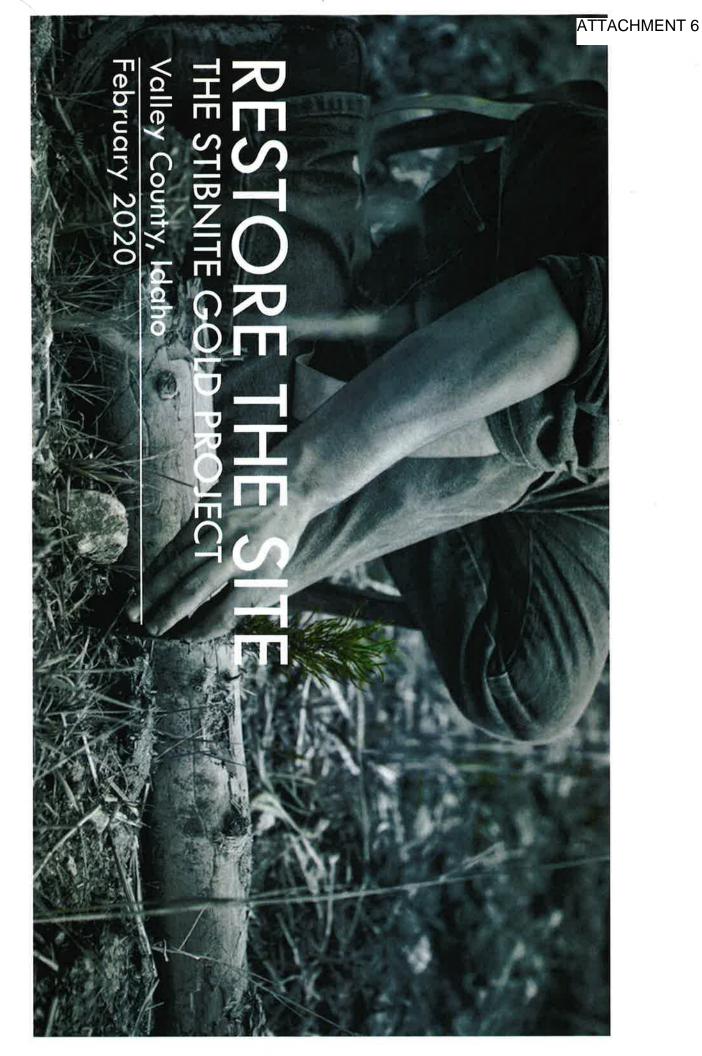


### Thank You





RESPONSIBLE. SAFE. INNOVATIVE.

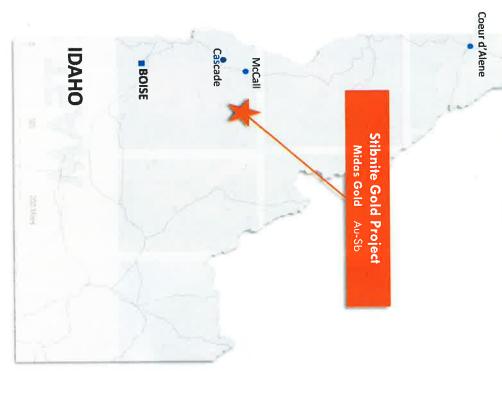


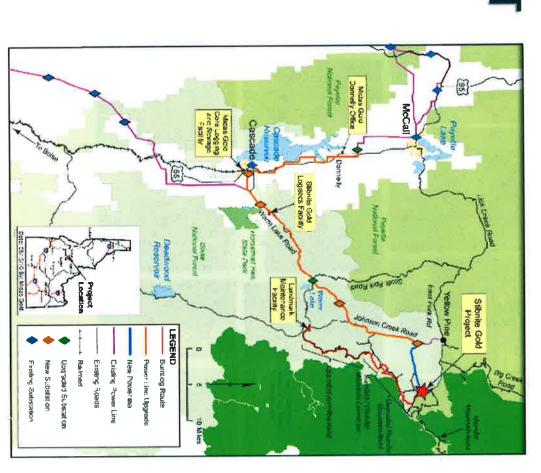
# THE STIBNITE GOLD PROJECT

We can take an area abandoned after 100 years of mining duse a sustainable approach to restore the environment and develop a modern mining industry.

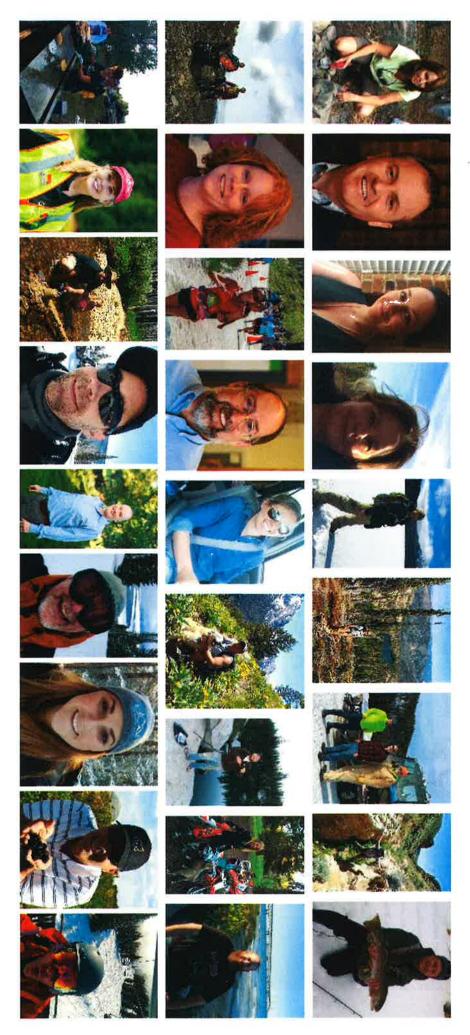
MIDAS GOLD

# STIBNITE GOLD PROJECT





## OUR TEAM



#### **GGRT**

#### 1938

The town of Stibnite booms when

The town of Stibnite is established

antimony is declared a critical mineral

#### 1952-1960

With WWII & the Korean war over, mining slowed and Stibnite slowly faded

Earthen dam failure resulting in hundreds of tons of sediment eroding into surrounding streams & rivers, even to this day

1960s

#### 1970-1990

Periodic mining by multiple -----owners and operators

All mining stopped, U.S. Gov't

conducts some limited clean-up

**2009** • - - - - ' Midas Gold consolidated land ownership & began evaluating the

geology & environment within the Stibnite Gold Project area

HISTORIC STIBNITE MINING DISTRICT

quirements for superior, highloys were introduced, and re-1 00010 cted towar the field of high temperature n short sur greatly expand THE US SENATE CONGRESSIONAL RECORD. 1952 high-temperature materials. In 1944 he the company's research program of search laboratory and was in charge of Steel Corp.

"In the opinion of the Munitions in 1942 shortened World War II tungsten mine at Stibnite, Idaho by at least 1 year and saved the Board, the discovery of that lives of a million American

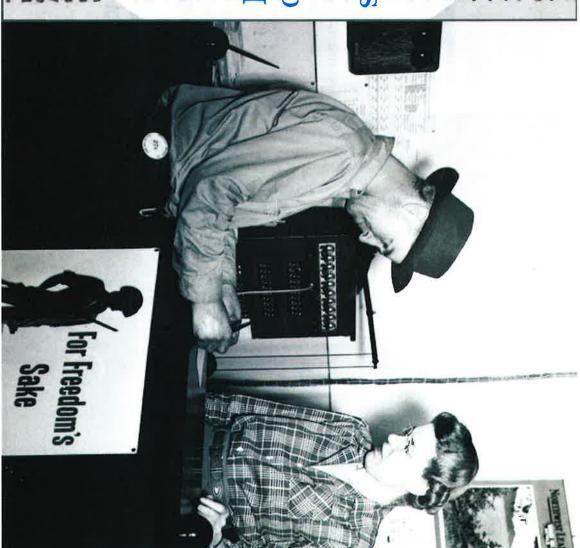
he best high-temperature alto be successful, certain congress that the Soviet Union leads th manganese ores, copper, lead, bauxita, nicke world in prospected deposits of Iron and the party nojasi

soldiers."

TO THE

Corean

w famous as working



### HISTORIC

#### TAILINGS

10.5 million tons of legacy spent ore and unlined tailings interact with the water table



**MEADOW CREEK** 4,900 ft rock lined ditch with limited





#### **YELLOW PINE PIT**

The East Fork of the South Fork dumps in to a legacy mine pit. Currently, ~80 feet of sediment has collected at the bottom



FISH PASSAGE

Fish
migration is
blocked by
the Yellow
Pine pit



HABITAT

13,500 ft poor habitat quality



#### BLOWOUT CREEK

Largest source of sedimentati on in the

watershed

#### **BLOWOUT CREEK**

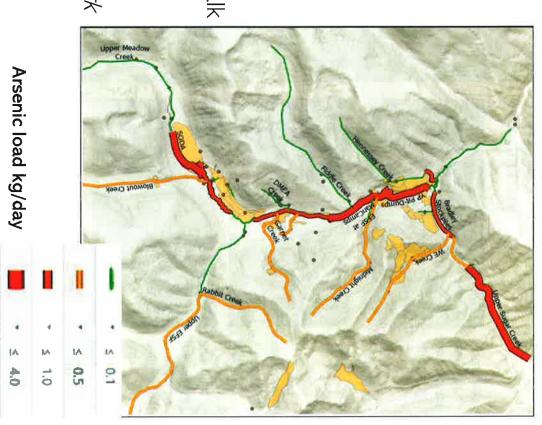
14 foot drop in water table, loss of wetlands function

### CERCLA

Compensation and Liability Act Comprehensive Environmental Response

away from the site with no future liability. allowed all federal parties and previous operators to walk Three CERCLA consent decrees between 2000-2012

arsenic and antimony. 2 tons of arsenic in the East Fork Yet, ground and surface water show troubling levels of of the South Fork of the Salmon River every year.



# MIDAS GOLD BRINGS A TWO-PRONGED SOLUTION

## Stibnite Gold Project

Designed to:

- Benefit water quality: Remove prominent legacy materials in construction and operation
- Reduce our footprint: Prioritizing historically impacted areas
- Restore concurrently: Restore and repair legacy features and our own disturbance early
- Reduce impact: Consolidate traffic, invest in alternate routes, dark skies commitment
- Reduce risk: Robust financial assurance, tailings design and cap development rock
- 6. Leave the area better than we found it: Repair key areas of site to benefit water quality, fish passage and habitat.
- Transparency and input: Inform stakeholders, welcome feedback and identify collaborative solutions

## CERCLA AOC

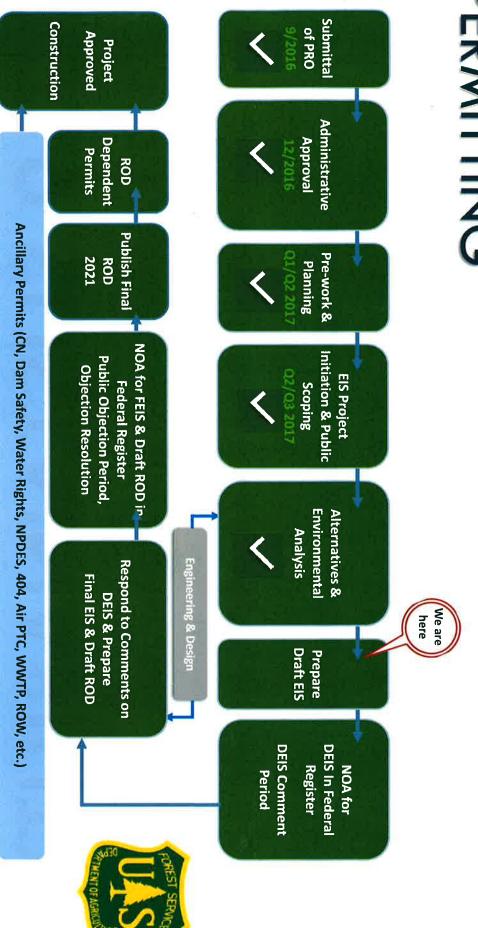
Administrative Order on Consent

- Inform: Notify our regulators of water quality concerns
- Resolve: Seek permission to address legacy at Stibnite
- Action: Identify immediate actions and longterm commitments

## PERMITTING



## PERMITTING



# 2019 SUSTAINABILITY



1,700 hours direct outreach

9,129 kWh solar 1,820 trees







Statements contained in this presentation that are not historical facts are "forward-looking information" or "forward-looking statements" (collectively, "Forward-Looking Information") within the meaning of applicable Canadian securities legislation and the United States Private Securities Litigation Reform Act of 1995. Forward-Looking Information includes, but is not limited to, disclosure regarding possible events, conditions or financial performance that is based on assumptions about future economic conditions and courses of action; and the plans for completion of the Offerings, expected use of proceeds and business objectives. In certain cases, Forward-Looking Information can be identified by the use of words and phrases such as "anticipates", "expects", "understanding", "has agreed to "or variations of such words and phrases or statements that certain actions, events or results "would", "occur" or "be achieved". Although Midas Gold has attempted to identify important factors that could affect Midas Gold and may cause actual actions, events or results to differ materially from those described in Forward-Looking Information, there may be other factors that cause actions, events or results not to be as anticipated, estimated or intended. There can be no assurance that Forward-Looking Information will prove to be accurate, as actual results and future events could differ materially from those anticipated in such statements. Accordingly, readers should not place undue reliance on Forward-Looking Information. Except as required by law, Midas Gold does not assume any obligation to release publicly any revisions to Forward-Looking Information contained in this news release to reflect events or circumstances after the date hereof or to reflect the occurrence of unanticipated events.

Forward-Looking Information involves known and unknown risks, uncertainties and other factors which may cause the actual results, performance or achievements of the Corporation to be materially different from any future results, performance or achievements expressed or implied by the Forward-Looking Information. Such risks and other factors include, among others, the industry-wide risks and project-specific risks identified in the 2014 prefeasibility study and summarized above; risks related to the availability of financing on commercially reasonable terms and the the Corporation has attempted to identify important factors that could affect the Corporation and may cause actual actions, events or results to differ materially from those described in Forward-Looking Information, there may be other factors that cause actions, events or results not to be as anticipated, estimated or intended. There can be no assurance that Forward-Looking Information will prove to be accurate, as actual results and future events could differ materially from those anticipated in such statements. Accordingly, readers should not place undue reliance on Forwardenvironmental laws and regulations and changes in the application of standards pursuant to existing laws and regulations which may increase costs of doing business and restrict operations; risks related to dependence on key personnel; and estimates used in financial statements proving to be incorrect; as well as those factors discussed in the Corporation's public disclosure record. Although necessary licences and permits; risks related to mineral properties being subject to prior unregistered agreements, transfers or claims and other defects in title; currency fluctuations; changes in mineral exploration and mining and the uncertain commercial viability of certain mineral deposits; the Corporation's lack of operating revenues; governmental regulations and the ability to obtain mineral title; community relations; delays in obtaining governmental approvals or financing; fluctuations in mineral prices; the Corporation's dependence on one mineral project; the nature of remediation requirements and the terms of existing and potential consent decrees on the Corporation's planned exploration and development activities on the Stibnite Gold Project; certainty of and other risks associated with the mineral exploration industry; environmental risks, including environmental matters under US federal and Idaho rules and regulations; impact of environmental future prices of metals; availability of third party contractors; availability of equipment; failure of equipment to operate as anticipated; accidents, effects of weather and other natural phenomena expected use of proceeds; operations and contractual obligations; changes in exploration programs based upon results of exploration; changes in estimated mineral reserves or mineral resources; reflect events or circumstances after the date hereof or to reflect the occurrence of unanticipated events. Looking Information. Except as required by law, the Corporation does not assume any obligation to release publicly any revisions to Forward-Looking Information contained in this presentation to

#### Cautionary Note

to making any investment decisions. The presentation has been prepared by Midas Gold management and does not represent a recommendation to buy or sell these securities. Investors should always consult their investment advisors prior

All references to "dollars" or "\$" shall mean United States dollars unless otherwise specified. Exchange rates and share prices used, where appropriate, are based on the spot prices as of Feb. 19th, 2016



and a Qualified Person. Midas Gold's exploration activities at Stibnite Gold were carried out under the supervision of Christopher Dail, C.P.G., Qualified Person and Exploration Manager and Richard Moses, www.midasgoldcorp.com) in its entirety (the "Technical Report"), including all qualifications, assumptions and exclusions that relate to the information set out in this presentation that qualifies the Technical C.P.G., Qualified Person and Site Operations Manager. For readers to fully understand the information in this presentation, they should read the Pre-Feasibility Study Report (available on SEDAR or at to the assumptions and qualifications contained therein. Information. The Technical Report is intended to be read as a whole, and sections or summaries should not be read or relied upon out of context. The technical information in the Technical Report is subject The technical information in this presentation (the "Technical Information") has been approved by Stephen P. Quin, P. Geo., President & CEO of Midas Gold Corp. (together with its subsidiaries, "Midas Gold")

considerations are applied. resource estimates include inferred mineral resources that are considered too speculative geologically to have economic considerations applied to them that would enable them to be categorized as mineral reserves. There is also no certainty that these Inferred mineral resources will be converted to the Measured and Indicated categories through further drilling, or into mineral reserves, once economic Mineral resources that are not mineral reserves do not have demonstrated economic viability. Mineral resource estimates do not account for mineability, selectivity, mining loss and dilution. These mineral

Section 2.3 of NI 43-101 states that: Despite paragraph (1) (a), an issuer may disclose in writing the potential quantity and grade, expressed as ranges, of a target for further exploration if the disclosure

- (a) states with equal prominence that the potential quantity and grade is conceptual in nature, that there has been insufficient exploration to define a mineral resource and that it is uncertain if further exploration will result in the target being delineated as a mineral resource; and
- (b) states the basis on which the disclosed potential quantity and grade has been determined.

environmental, permitting, legal or other reasons that would prevent it from advancing the project. interests at Stibnite, the Project will be subject to a number of federal, State and local laws and regulations and will require permits to conduct its activities. However, Midas Gold is not aware of any The mineral resources and mineral reserves at the Stibnite Gold Project are contained within areas that have seen historic disturbance resulting from prior mining activities. In order for Midas Gold to advance its

Golden Meadows Project, Idaho' prepared by SRK Consulting (Canada) Inc. and dated September 21, 2012 (PEA) and that PEA should no longer be relied upon. (access road), SPF Water Engineering, LLC (water rights) and Tierra Group International Ltd. (tailings, water management infrastructure and closure) also contributed to the PFS. Additional details of responsibilities are provided in the technical report filed on SEDAR in December 2014. The PFS supersedes and replaces the technical report entitled 'Preliminary Economic Assessment Technical Report for the (metallurgy), Pieterse Consulting, Inc. (autoclave), Independent Mining Consultants Inc. (mine plan and mineral reserves), Allen R. Anderson Metallurgical Engineer Inc. (recovery methods), HDR Engineering Inc. The PFS was compiled by M3 Engineering & Technology Corp. ("M3") which was engaged by Midas Gold Corp.'s wholly owned subsidiary, Midas Gold, Inc. ("MGI"), to evaluate potential options for the possible redevelopment of the Stibnite Gold Project based on information available up to the date of the PFS. Givens Pursley LLP (land tenure), Kirkham Geosystems Ltd. (mineral resources), Blue Coast Metallurgy Ltd.

# REPORTING MEASURES

comparable to similar data presented by other mining companies. These performance measures should not be considered in isolation as a substitute for measures of performance in accordance with IFRS "Cash Costs", "All-in Sustaining Costs" and "Total costs" are not Performance Measures reported in accordance with International Financial Reporting Standards ("IFRS"). These performance measures are to assess the overall effectiveness and efficiency of the contemplated mining operations. These performance measures do not have a meaning within IFRS and, therefore, amounts presented may not be included because these statistics are key performance measures that management uses to monitor performance. Management uses these statistics to assess how the Project ranks against its peer projects and



Idaho State Legislature February 12, 2020

### What is Itafos Conda?



A phosphate mine and fertilizer manufacturing facility in Caribou County that's been

continuously operating for 33 years.

work and traditions of the facility. on January 12, 2018 and continues the great Itafos purchased the Conda site from Agrium

path forward for long-term ore continuity by prioritizing Husky 1/North Dry Ridge (H1/NDR) resources in existing mines and defining the supply from a combination of additional Currently focused on extending phosphate ore



### Who it Itafos Conda?

500+ workers making up more than 15% of the Caribou County workforce

Many employees work just a short commute from their home's

- 286 direct employees
- Approximately 220 contract employees
- We produce products right here in Idaho that serve the local and regional agricultural industry
- Provide significant contributions to the local regional, and state economies







## What is Itafos Conda's economic impact?







- \$24k United Way of Southeastern Idaho
- \$20k Education Foundations in Caribou & Bear Lake Counties.
- \$10k Caribou County Senior Center Meals on Wheels
- \$10k Trout Unlimited

- \$2k Soda Springs High School Athletics
- \$2k Caribou County Fair & Rodeo
- \$1k Soda Springs Rotary Club
- \$1k Soda Springs Parks & Recreation
- \$1k Oregon Trail Center



## Why is Itafos Conda good for Idahoans?

Mine and plant personnel are among the highest-paid industrial or service employees.

We hire locally and draw natives back to the Gem State.

We support Idaho businesses by locally sourcing contractors, materials, services, and supplies.





## The future of Itafos Conda!

- The deposit has enough ore to allow us to continue our responsible mining,
- significant benefits to the social structure and economics of our community. providing jobs and being an economic boost to the state Timely permitting of H1/NDR will-allow Itafos Conda to continue to provide

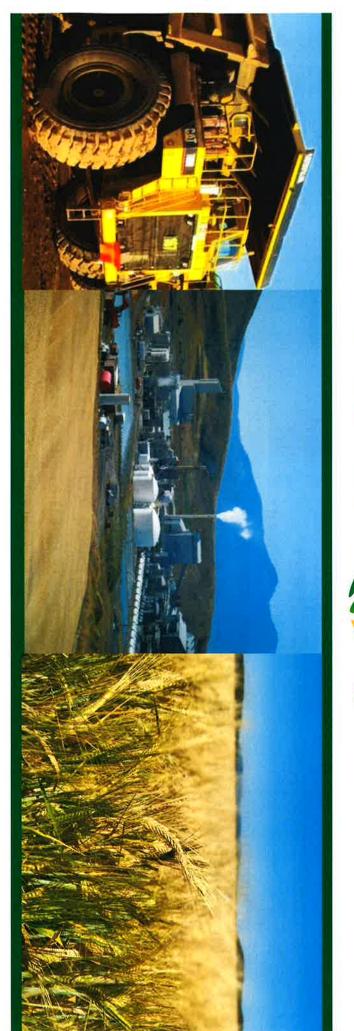


- Minimize environmental impact through an approved Mine and Reclamation plan, to
- Reclamation to established best practices
- impacted areas Utilizing existing facilities and previously
- project Short and long-term monitoring of the
- use area Restore the property back to a multiple



## 

Questions



#### AGENDA

# SENATE RESOURCES & ENVIRONMENT COMMITTEE 1:30 P.M.

# Room WW55 Monday, February 17, 2020

SUBJECT	DESCRIPTION	PRESENTER
PAGE INTRODUCTION:	Introduction of Page Lexi Rich from Meridian, Idaho.	Chairman Heider
MINUTES APPROVAL:	Committee approval for Minutes of the February 3, 2020 meeting.	Senator Patrick
GUBERNATORIAL APPOINTMENT:	The Gubernatorial Appointment of Zachary Mason to the Idaho Outfitters and Guides Licensing Board.	Zachary Mason
<u>S 1289</u>	Relating to irrigation districts; to revise provisions for assessment purposes.	Paul Arrington, Executive Director and General Counsel, Idaho Water Users Association
<u>S 1290</u>	Relating to irrigation districts; to combine precincts, to provide location of polling place, and judges of election.	Paul Arrington
<u>S 1316</u>	Relating to water; regarding the permitting and licensing of water rights.	Travis Thompson, Barker Rosholt & Simpson LLP
		Norm Semanko, Parsons Behle & Latimer
		Shelley Keen, Water Allocation Bureau Chief, Department of Water Resources
		Paul Arrington
<u>H 382</u>	Relating to water; to provide for the Bear River water rights adjudication, accomplished transfers, and revise provisions regarding enlargements.	Senator Harris
<u>H 367</u>	Relating to phosphogypsum; to provide: legislative findings and purpose, the power of the board, construction requirements for certain stacks, and design and construction plans.	Benjamin Davenport, Executive Vice President, Idaho Mining Association

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS COMMITTEE SECRETARY

Chairman Heider Sen Patrick Erin Miller

Vice Chairman Brackett Sen Guthrie Room: WW37

Sen Bair Sen Stennett Phone: 332-1323

Sen Johnson Sen Jordan Email: sres@senate.idaho.gov

Sen Mortimer

#### MINUTES

## SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, February 17, 2020

TIME: 1:30 P.M.

PLACE: Room WW55

**MEMBERS** Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer,

Patrick, Guthrie, Stennett, and Jordan PRESENT:

ABSENT/ None

**EXCUSED:** 

NOTE: The sign-in sheet, testimonies and other related materials will be retained with

the minutes in the committee's office until the end of the session and will then be

located on file with the minutes in the Legislative Services Library.

Chairman Heider called the meeting of the Resources and Environment CONVENED:

Committee (Committee) to order at 1:32 p.m.

**PAGE** 

Chairman Heider introduced the Committee's second term Page, Lexi Rich, and INTRODUCTION: asked her to share her background and why she chose to be a page with the

Committee. Ms. Rich announced that she is from Meridian, Idaho, a senior at Rocky Mountain High School, and the Associated Student Body president. She plans to go to Dixie State University for one year, then serve an LDS mission,

and upon returning attend Utah State.

**MINUTES** APPROVAL: Senator Patrick moved to approve the Minutes of February 3, 2020. Senator

Jordan seconded the motion. The motion carried by voice vote.

APPOINTMENT:

**GUBERNATORIAL** The Gubernatorial Appointment of Zachary Mason to the Idaho Outfitters and

Guides Licensing Board.

Mr. Mason explained his background to the Committee. He lives in Meridian, and is an emergency medical responder instructor at Renaissance High School. He is a firefighter paramedic for the city of Meridian, and also the owner/outfitter/guide at H20 Idaho in Riggins. He explained he is passionate about being an interpreter for the outdoors to his guests whom he takes rafting, and is looking forward

to being on the board.

S 1289 Relating to irrigation districts; to revise provisions for assessment purposes.

> Paul Arrington, Executive Director and General Counsel, Idaho Water Users Association (IWUA), explained that irrigation canals were developed to deliver water to large tracks of irrigators, therefore delivering to smaller tracks of land is getting more expensive. Idaho Code § 43-732 authorizes an irrigation district to assess a service charge to small tracts of land when the cost is substantially greater then the cost of water delivery to the other lands of the district. This section applies to the following groupings: less than two acres, or two to ten acres; therefore, the current dividing point is two acres. He asserted that the more appropriate dividing point is one acre which would allow districts to appropriately and fairly assess their users. This bill amends the groupings to less than one acre, and one to ten acres. He detailed changes in the bill and where the redlined changes were located.

DISCUSSION:

In response to several questions from the Committee, **Mr. Arrington** detailed how districts measure delivered water, that not all irrigators adopt the canal system, the cost burden upon canal companies and fiscal impact upon the state, specific dollar amounts, and fees charged.

**Andy Waldera**, Attorney, Sawtooth Law Offices, spoke to answer Committee questions regarding costs borne by others. He clarified that the dividing line for classes already exists in the statute and this bill edits that line. He stated that Glenns Fairy, King Hill, and Hammett are having difficulty with expenses for small tracts and receive several service calls on one acre or less lots, and want to make the cost fair for all. He detailed the ownership of irrigation districts and how they operate pressurized irrigation systems.

**Senator Stennett** and **Mr. Waldera** discussed if he and/or IWUA had dialog with other districts to make sure this bill does not penalize them by changes made in the King Hill and Hammett area. It was reviewed that this issue crosses over a number of districts and will not have any unintended consequences on other districts.

MOTION:

**Senator Mortimer** moved to send **S 1289** to the floor with a **do pass** recommendation. **Senator Bair** seconded the motion. The motion carried by **voice vote**. Vice Chairman Brackett will carry the bill on the floor.

S 1290

Relating to irrigation districts; to combine precincts, to provide location of polling place, and judges of election.

**Mr. Arrington** introduced Lauren Markuson, IWUA legislative intern and third year law student. **Ms. Markuson** described that Idaho Code § 43-206 requires polling places in each precinct for irrigation district elections, unless two precincts are consolidated by resolution of the board of directors. She highlighted that smaller and rural districts have difficulty with this requirement. She explained this bill will allow small irrigation districts (specifically 15,000 acres or less) to combine all polling places into one location if the board of directors adopts a resolution combining all polling places, and the combined polling place must be the irrigation district office. This would provide a solution to the challenges that small irrigation districts face regarding polling places and election of judges.

In response to Committee questions, **Ms. Markuson** explained that there are options for absentee ballots, and the smaller precincts have constraints in regards to staffing, polling facilities, and complying with the Americans with Disabilities Act.

MOTION:

**Senator Guthrie** moved to send **S 1290** to the floor with a **do pass** recommendation. **Senator Mortimer** seconded the motion. The motion passed by **voice vote**. Vice Chairman Brackett will carry the bill on the floor.

S 1316

Relating to water; regarding the permitting and licensing of water rights.

**Travis Thompson**, Attorney with Barker Rosholt & Simpson LLP, in Twin Falls, introduced himself and stated he was presenting on behalf of the city of Twin Falls. He voiced that the genesis of this legislation stems from the city's experience in processing a water right application before the Idaho Department Water Resources (IDWR), which is required for cities and other providers of municipal water, for a reasonably anticipated future needs water right (RAFN), which is a different water right from a regular claim. RAFN water rights are for future needs and dependent upon a planning horizon which can extend for a significant number of years (20 to 30 years, or even longer), allowing that city to obtain a water right to grow into over time. At the outset the applicant has to submit sufficient information for the planning horizon up front that has to be

approved by IDWR. Questions arise regarding proof of beneficial use, since currently IDWR is restrained and can only give a five year time period, with an optional extension of an additional five years. This bill cleans up the unintended glitch when the municipal water rights act was first passed back in 1996, giving IDWR the ability to use the full planning horizon on the permit to prove up the water right and license the water right for the water that was actually used at the end of that period.

**Norm Semanko**, Parsons Behle & Latimer, representing the city of Eagle, stated that the interests of irrigators and cities converge regarding this bill. He reiterated the one glitch in the municipal water rights act was regarding the RAFN water rights, and detailed its relevance using his city's specifics as an example. He expounded this bill will make it clear that for future and existing permits, the proof of beneficial use will be done at the end of the planning horizon so IDWR does not have to guess and the cities do not have to have uncertainty about the amount of water that is actually developed and licensed.

**Shelley Keen**, Water Allocation Bureau Chief, IDWR, spoke to add perspective on this bill from IDWR's point of view. He briefed that the working group drafting the bill consulted them regarding language and IDWR is very comfortable with the way this bill has come forward. He informed the bill directly addresses accommodation of existing permits and applications for RAFN, which will have the same planning horizon as authorized at the outset, and it allows IDWR to extend the proof deadline to the end of the planning horizon to conform with the revised process. He explained new permits resulting from existing applications will be based on the statutes in place at the time of permit issuance regardless of when the application was filed.

**Mr. Arrington** reiterated there was a work group who put this bill together with many stakeholders and referenced letters in support that were in front of the Committee (see attachment 1).

**Senator Mortimer** moved to send **S 1316** to the floor with a **do pass** recommendation. **Senator Bair** seconded the motion. The motion carried by **voice vote**. Senator Bair will carry the bill on the floor.

Relating to water; to provide for the Bear River water rights adjudication, accomplished transfers, and revise provisions regarding enlargements.

Senator Mark Harris, Legislative District 32, stated this bill initiates the general water adjudication for the Bear River Basin (BRB), and authorizes the adjudication of all rights in those portions of Bannock, Bear Lake, Caribou, Cassia, Franklin, Oneida, and Power counties within the BRB. Since the river crosses state lines, interstate agreements were necessary to apportion the water from the Bear River among Utah, Idaho, and Wyoming. This bill gives Idaho's three commissioners more information needed to represent Idaho's interest in water allocation matters and any water dispute. The last time the water in the BRB was adjudicated was in 1920 and the law has changed since then. Beneficial use water rights that exist, but are not recorded, have caused disputes regarding water rights, property transactions, and difficulty in administration. He stated an adjudication will safeguard Idaho's water in dealing with Utah and Wyoming. He referenced a letter of support from Mark Mathews of the Bear River Water User's Association (see attachment 2). He illuminated that the projected cost for this adjudication is \$8 to \$10 million over the next 10 year period.

MOTION:

H 382

DISCUSSION:

**Senator Stennett** asked how adjudication happens when the river flows into different states. **Senator Harris** clarified the adjudication will just affect Idaho, and that currently Utah is in the process of adjudicating their part. The main issue Idaho has is due to Utah being settled before Idaho, making a lot of their water priority dates earlier.

**TESTIMONY:** 

**Mr. Arrington** stated IWUA supports this bill and voted unanimously to support it. Their decision was not made lightly as they have discussed it for many years, and unanimous support took a lot to get all the water users on board. He reiterated that this adjudication is about cataloging what water rights Idaho has, and it will establish what the priority dates and usage are so when scenarios come up there is a judicial decree of Idaho's rights.

Roger Chase, Chairman of the Idaho State Water Resource Board, wanted to inform the Committee that the board feels this legislation is important. He gave the background that Pacific Corp was looking at changing the way they were going to use the water in the Bear River by making it an additional power source, which had many concerned. The adjudication process has been successful as used in Idaho and the hope is that this process will establish Idaho's water rights.

**MOTION:** 

**Senator Bair** moved to send **H 382** to the floor with a **do pass** recommendation. **Senator Patrick** seconded the motion. The motion carried by **voice vote**. Senator Harris will carry the bill on the floor.

H 367

Relating to phosphogypsum; to provide: legislative findings and purpose, the power of the board, construction requirements for certain stacks, and design and construction plans.

Benjamin Davenport, Executive Vice President, Idaho Mining Association (IMA), explained this bill was regarding minimum design standards for phosphogypsum stacks. He described the importance of the critical mineral phosphate and explained what phosphogypsum stacks are. Currently, Idaho rules exclude phosphogypsum stacks from regulation and this bill would create a standard similar to other solid waste facilities already in place in Idaho and regulated by the Idaho Department of Environmental Quality (IDEQ). The Environmental Protection Agency (EPA) is negotiating with companies on requirements, design, operation, closure, and financial assurance requirements for phosphogypsum stacks. IMA would like to provide a transparent and uniform requirement in Idaho that is functionally equivalent to the EPA requirements. The phosphate fertilizer industry in Idaho believes that the IDEQ should have the responsibility for overseeing and implementing the requirements for phosphogypsum stacks rather than the EPA. The minimum design standards included reflect current industry practices and EPA requirements. IMA is unaware of any opposition to the bill and both the Idaho Association of Commerce and Industry and the Food Producers of Idaho support the bill.

**DISCUSSION:** 

**Senator Stennett** and **Mr. Davenport** discussed the current industry processes and how IDEQ, rather than the EPA, should have oversight. Currently the phosphogypsum stacks owners have to protect water from coming through the stacks and contaminating the ground, and they consider seismic science in designing the stack.

**Senator Johnson** referred to specific language in the bill and inquired about the notice of rejection which may be appealed by the operator to the Idaho Board of Environmental Quality (Board), and what the Board is supposed to decide. **Mr. Davenport** discussed that the Board will decide whether or not the operator's permit will go forward, with the option to have a hearing in front of the IDEQ board to see if they were correct in permitting.

TESTIMONY: **Kevin Beaton**, Partner with Stoel Rives, stated that currently the Board of Environmental Quality gets to decide final agency actions of IDEQ and people can appeal the IDEQ decision to the board if they are not happy with it and think it's incorrect. He explained the board can review the IDEQ decision on a contested case and will defer to the agency, especially on technical matters; this bill affirms the current process. He pointed out anyone has the right to go to court to challenge a decision by the board. MOTION: Senator Guthrie moved to send H 367 to the floor with a do pass recommendation. Senator Patrick seconded the motion. The motion carried by voice vote. Senator Harris will carry the bill on the floor. ADJOURNED: There being no further business at this time, Chairman Heider adjourned the meeting at 2:39 p.m. Senator Heider Erin Miller Secretary Chair



February 13, 2020

Idaho Legislature Senate Resources & Environment Committee P.O. Box 83720 Boise, ID 83720

Subject: Senate Bill 1316

Dear Senator Heider and Committee Members:

The Idaho Rural Water Association (IRWA) is a 501(c)3 non-profit corporation originally formed in 1987 to provide training and technical assistance to public drinking water and public sewer utilities in Idaho that serve communities of less than 10,000 people. IRWA fully supports Senate Bill 1316 (RAFN legislation).

Due to the rural nature of our state, IRWA serves more than 90 percent of public drinking water and wastewater utilities in Idaho. Our Association is currently comprised of over 350 of Idaho's drinking water and wastewater utilities and is governed by a seven-member board of directors that volunteer their time. Directors are elected from IRWA's member utilities.

IRWA was actively involved in the work group that drafted and proposed the RAFN legislation. This legislation proposes changes to the Idaho Water Code as it relates to "reasonably anticipated future needs" water right applications, permits and licenses.

This RAFN legislation provides cities and municipal providers of all sizes the ability to obtain incremental licenses by proving up beneficial use as their water system and service is completed. This incremental licensing will provide these providers more certainty in what they use and may need in the future, will help with setting budgets and assist in planning, zoning and growth decisions.

IRWA believes this proposed legislation is good for its members and for the state of Idaho generally. If there is any information we can provide regarding our position on this proposed piece of legislation, please feel free to contact me or our CEO, Shelley Roberts.

Respectfully,

AJ Gray AJ Gray

Legislative Director
Idaho Rural Water Association

# VENS PURSLEY LLP

Attorneys and Counselors at Law

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Neal A. Koskella Michael P. Lawrence Franklin G. Lee David R. Lombardi Kimberly D. Maloney Kenneth R. McClure Kelly Greene McConnell Alex P. McLaughlin Melodie A. McQuade Christopher H. Meyer L. Edward Miller Judson B. Montgomery W. Hugh O'Riordan, H. M. Samuel F. Parry Randall A. Peterman

Jack W. Relf Michael O. Roe Jamie Caplan Smith Jeffrey A. Warr Robert B. White

William C, Cole (Of Counsel)

Kenneth L. Pursley (1940-2015) James A. McClure (1924-2011) Raymond D. Givens (1917-2008)

February 14, 2020

Via Hand Delivery

Chairman Lee Heider Resources and Environment Committee Idaho State Senate State Capitol Building 700 West Jefferson Street Boise, ID 83702

Re: Statement of support for S. 1316

Mr. Chairman:

I am writing on behalf of my clients, the City of Nampa, North Kootenai Water and Sewer District, and SUEZ Water Idaho in support of S. 1316. This legislation is important to them and to municipal water providers throughout the State of Idaho. We have worked closely with other municipal providers, the Idaho Water Users Association, and the Idaho Department of Water Resources in developing this consensus legislation.

Idaho's Municipal Water Rights Act of 1996 authorized cities and other providers of municipal water to obtain long-term water rights to serve their "reasonably anticipated future needs" and to grow into these rights over a long-term planning horizon set by IDWR for each right. These water rights, known as "RAFN" rights, play a vital role in allowing water providers to plan for the future.

The 1996 Act has proven remarkably successful in ensuring that Idaho's cities are able to secure reliable water supplies to meet the needs of Idaho citizens and businesses as the State continues to grow. It has accomplished this in a way that has avoided the "water wars" between

Chairman Lee Heider February 14, 2020 Page 2 of 2

competing municipal water providers that have plagued other parts of the West. This is because the 1996 Act contains strong provisions to encourage cooperation in resolving service boundary disputes while preventing speculation in water rights.

Most importantly, RAFN water rights are vital to Idaho's ability to protect Idaho water in the event of future conflicts with other states over interstate water supplies.

This legislation fixes a flaw in the 1996 Act. Under existing legislation, IDWR is required to license a RAFN right just a few years after the permit is issued, despite the fact that full beneficial use has not yet been achieved. Senate Bill 1316 will allow IDWR to license RAFN rights gradually and incrementally over their long-term planning horizon, which may last for decades. Incremental licensing will eliminate uncertainty and confusion, because it will be based on demonstrated beneficial use at each licensing stage. This sensible approach will be more efficient for both municipal providers and IDWR, and will provide certainty for all water users.

Accordingly, the bill has the full support of Nampa, NKWSD, and SUEZ. I ask that this letter be placed into the record.

Sincerely,

Christopher H. Meyer

cc: Vice Chair Bert Bracket

Senator Steve Bair

Senator Daniel G. Johnson

Senator Dean M. Mortimer

Senator Jim L. Patrick

Senator Jim Guthrie

Senator Michelle Stennett

Senator Maryanne Jordan

Committee Secretary Jamie Skrypkun

TO:

4

Caribou County Sun, Montpelier News Examiner, Preston Citizen, Idaho

Enterprise

FROM:

Mark Mathews - Guest Editorial Letter

RE:

Bear River Adjudication

DATE:

February 3, 2020

### SUPPORT BEAR RIVER ADJUDICATION

As President of Last Chance Canal Co. and also the Bear River Water User's Association (BRWUA) I am writing this letter to urge support of legislation introduced by Rep. Marc Gibbs and Sen. Mark Harris to commence the general adjudication of the Bear River Basin in Idaho, to provide state funding and to protect existing Idaho water rights.

BRWUA members include all of the canal companies in Idaho and Utah along with small pumpers along the river that hold both natural flow rights in the Bear River and storage water rights in Bear Lake which they rely upon to collectively irrigate in excess of 150,000 acres of fertile farmland. After careful study BRWUA as well as the vast majority of other water users up and down the river have provided unanimous support of the adjudication of the Bear for numerous reasons which I wish to explain.

Candidly, there are some burdens associated with an adjudication which we have carefully weighed. An adjudication will require commitments of time and effort from water users and the State of Idaho, and in some instances, there will be conflict as lawful water rights are sorted out. Yet, based on years of experience during the recently concluded Snake River Basin Adjudication and ongoing North Idaho Adjudication, we believe that the many benefits significantly outweigh small burdens for water users in the Bear River Basin.

One key benefit is the opportunity to correct errors and accurately define existing water rights. The Bear River and its tributaries in Idaho were last adjudicated in 1920 in what is commonly called the "Dietrich Decree." The Dietrich Decree did not define water rights with the level of detail the Idaho Department of Water Resources (IDWR) now uses. Water right ownership, points of diversion, and places of use have in many instances changed over the past 100 years, without the records of the IDWR being updated. Consequently, many water rights in the Bear River Basin are not accurately or or clearly defined. This has let to confusion and makes it increasingly difficult for IDWR to properly distribute water. It also frequently creates problems for landowners, lenders, and prospective buyers when land and water rights change hands or when a water user seeks to change how their rights are used. A general adjudication will help solve these problems by establishing a complete and accurate catalog of all water rights.

A second major benefit is the opportunity to take advantage of three statutes that enable water users update and correct water rights to accurately reflect current irrigation practices. The "accomplished transfer" statute (Idaho Code § 42-1425) allows water users to claim their current place of use, point of diversion, purpose of use, and period of use even though it differs from what was previously decreed, without having to file a

transfer application with IDWR. The "enlargement" statute (Idaho Code § 42-1426) allows water users to claim additional acres than were previously decreed under certain circumstances. The "ambiguous decree" statute (Idaho Code § 42-1427) allows water to claim water right elements that were not defined in prior decrees. These statutes only apply in a general adjudication. They were enacted in connection with the Snake River Basin Adjudication, were extended to include the North Idaho Adjudication and will be extended to the Bear River Adjudication as a part of the legislation package.

A third benefit is the opportunity to take advantage of the experience and wisdom that presently exist in the water court and the IDWR. The State of Idaho completed a few years ago adjudication of some 157,000 water right claims in the Snake River Basin Adjudication (SRBA), and is presently nearing completion in adjudicating water rights in northern Idaho. As a result of these adjudications the legal disputes were all resolved establishing clear legal precedent that will readily apply to the facts pertaining sorting out existing water rights and confirming actual diversions and beneficial use. These adjudications are carried out by a special water court, with assistance from the IDWR, both of which have developed specialized expertise and technology for the task. While the SRBA took many years to complete, the vast majority of the claims were uncontested and resolved efficiently. Further, many complicated legal issues involving ground water rights, surface water rights, tribal rights, and Federal rights were resolved during the SRBA, establishing precedent that should not need repeating in the Bear River Basin.

With the SRBA complete and the expertise of the IDWR and the water court in place the time is now ripe to begin an adjudication of the Bear River Basin. Legislation to start the Bear River adjudication was presented back in 2016, but tabled for a two year period at the request of a few users to allow more time for the water user community to become better educated and prepared. It is now the right time to move forward which I am convinced will provide long-term economic benefits to the region as well a protect Idaho water rights in the Bear River basin.

Rep. Gibbs and Sen. Harris have carefully crafted the necessary legislation to initiation the adjudication of the Bear River Basin, to provide state funding and to protect existing water rights. This legislation has recently received the full support of the Idaho Water Users Association. Please contact Rep. Gibbs (mgibbs@house.idaho.gov) and Sen. Harris (mharris@senate.idaho.gov) and add your support to ours.

Sincerely,

Mark Mathews

Grace, Idaho

President - Last Chance Canal Co.

President – Bear River Water User's Ass.

#### **AGENDA**

# SENATE RESOURCES & ENVIRONMENT COMMITTEE 1:30 P.M.

# Room WW55 Wednesday, February 19, 2020

SUBJECT	DESCRIPTION	PRESENTER
MINUTES APPROVAL:	Committee approval for Minutes of the February 5, 2020 meeting.	Vice Chairman Brackett
VOTE ON GUBERNATORIAL APPOINTMENT:	Committee vote on appointment of Zachary	Didokett
H 329	Relating to water resources, to authorize director to receive, file, record, or retain documents on media other than paper.	Shelley Keen, Water Allocation Bureau Chief, Department of Water Resources
H 366	Relating to water, to revise provisions regarding meetings, watermasters, distribution of water, district budgets, and treasurers.	Tim Luke, Water Compliance Bureau Chief, Department of Water Resources

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

<u>COMMITTEE MEMBERS</u> <u>COMMITTEE SECRETARY</u>

Chairman HeiderSen PatrickErin MillerVice Chairman BrackettSen GuthrieRoom: WW37Sen BairSen StennettPhone: 332-1323

Sen Johnson Sen Jordan Email: sres@senate.idaho.gov

Sen Mortimer

#### MINUTES

## SENATE RESOURCES & ENVIRONMENT COMMITTEE

**DATE:** Wednesday, February 19, 2020

**TIME:** 1:30 P.M.

PLACE: Room WW55

**MEMBERS** Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer,

**PRESENT:** Patrick, Stennett, and Jordan

ABSENT/ Senator Guthrie

EXCUSED:

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with

the minutes in the committee's office until the end of the session and will then be

located on file with the minutes in the Legislative Services Library.

**CONVENED:** Chairman Heider called the meeting of the Senate Resources and Environment

Committee (Committee) to order at 1:30 p.m.

MINUTES Vice Chairman Brackett moved to approve the Minutes of February 5, 2020.

APPROVAL: Senator Mortimer seconded the motion. The motion carried by voice vote.

**GUBERNATORIAL Senator Patrick** moved to send the Gubernatorial appointment of Zachary **APPOINTMENT:** Mason to the Idaho Outfitters and Guides Licensing Board to the floor with

recommendation that he be confirmed by the Senate. **Senator Stennett** seconded the motion. The motion carried by **voice vote**. Senator Stennett

will carry the appointment on the floor.

**H 329** Relating to water resources, to authorize director to receive, file, record, or retain

documents on media other than paper.

**Shelley Keen**, Water Allocation Bureau Chief, Department of Water Resources (IDWR), introduced himself and discussed that this proposed legislation gives the director of IDWR clear authority to receive and retain official documents on media other than paper. He informed that IDWR customers want to submit records digitally, but IDWR still requires original paper documents for many processes, and they maintain all those records in paper form. IDWR would like to introduce a records management program that includes digital records retention practices and digital filing opportunities, saving time and effort for their customers and staff. He reported that IDWR shared this proposal with the Idaho

Water Users Association and received their vote of support.

MOTION: Senator Mortimer moved to send H 329 to the floor with a do pass

recommendation. Senator Bair seconded the motion. The motion carried by

voice vote. Senator Mortimer will carry the bill on the floor.

**H 366** Relating to water, to revise provisions regarding meetings, watermasters,

distribution of water, district budgets, and treasurers.

**Tim Luke**, Water Compliance Bureau Chief, IDWR, introduced Rob Whitney, Water Distribution Section Manager, Compliance, IDWR, who worked on the bill amendments and turned the time over to him. **Mr. Whitney** discussed that this bill was regarding water distribution for water resources and its purpose was to propose amendments to Chapter 6, Title 42 of Idaho Code, which provides foundational distribution of water within Idaho by water districts and their watermasters. He specified that this legislation:

- consolidates language, eliminates duplication of sections, and clarifies requirements for counties, related to the collection of water district assessments;
- consolidates the requirements for watermaster reporting into one section;
- authorizes watermasters to estimate the amount of water delivered to water users where actual delivery data is not available for purposes of assessment; and
- · amends requirements for water district annual meeting notices.

He assured that no financial impact will result from the amendments since it is limited to clarifying, consolidating, or correcting language in the statute, thereby streamlining the process for water district annual meetings, and reducing some of IDWR's mailing costs. He informed that IDWR worked with the Idaho Water Users Association and the Idaho Association of Counties to review, assist, and refine the original draft.

#### **DISCUSSION:**

**Senator Mortimer** and **Mr. Whitney** discussed watermasters' compensation, accountability, and existing checks and balances. It was explained that watermasters are accountable to the water users and there is an advisory committee; the IDWR supervises the watermasters, and also reviews their reports, budgets, and expenditures. The treasurer, who assists with the disbursement of funds, would also review watermasters.

**Senator Stennett** and **Mr. Whitney** discussed pages 10, 11, and 12 regarding when commissioners choose a watermaster and a watermaster treasurer. If the district's budget is over \$7,500, a treasurer, who is not the watermaster, will be chosen. **Mr. Whitney** clarified that the watermaster can also serve as the water district's treasurer provided their budget is less than \$7,500, and that the treasurer usually collects all assessments and then disburses expenses, another form of checks and balances for the district. He explained that there are a lot of small districts throughout the state causing a variation, therefore they wanted to provide some latitude for smaller districts.

#### **MOTION:**

**Senator Mortimer** moved to send **H 366** to the floor with a **do pass** recommendation. **Senator Patrick** seconded the motion. The motion carried by **voice vote**. Senator Patrick will carry the bill on the floor.

**Chairman Heider** acknowledged the BYU Idaho class that was in attendance. Their professor, **Dr. Allan Walburger**, addressed the Committee and discussed that he wanted his students to see firsthand what they are learning in the classroom. Several students came forward and asked questions of the Committee.

#### **ADJOURNED:**

There being no further business at this time, **Chairman Heider** adjourned the meeting at 2:12 p.m.

Senator Heider	Erin Miller
Chair	Secretary

# AMENDED AGENDA #1 SENATE RESOURCES & ENVIRONMENT COMMITTEE 1:30 P.M.

# Room WW55 Monday, February 24, 2020

SUBJECT	DESCRIPTION	PRESENTER
MINUTES APPROVAL:	Committee approval for Minutes of the February 10, 2020 meeting.	Senator Johnson
RS27788	Unanimous Consent for Referral to a Privileged Committee for printing; relating to the Idaho Roadless Rule Implementation Commission	Senator Johnson
H 426	Relating to Fish and Game; to revise provisions regarding the commission's authority associated with tags, to revise powers and duties of the board, and declaring an emergency.	Aaron Lieberman, Executive Director, Idaho Outfitters and Guides Association

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS COMMITTEE SECRETARY

Chairman HeiderSen PatrickErin MillerVice Chairman BrackettSen GuthrieRoom: WW37Sen BairSen StennettPhone: 332-1323

Sen Johnson Sen Jordan Email: sres@senate.idaho.gov

Sen Mortimer

#### MINUTES

## SENATE RESOURCES & ENVIRONMENT COMMITTEE

**DATE:** Monday, February 24, 2020

**TIME:** 1:30 P.M.

PLACE: Room WW55

**MEMBERS** Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer,

PRESENT: Patrick, Guthrie, Stennett, and Jordan

ABSENT/ None

EXCUSED:

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with

the minutes in the committee's office until the end of the session and will then be

located on file with the minutes in the Legislative Services Library.

**CONVENED:** Chairman Heider called the meeting of the Senate Resources and Environment

Committee (Committee) to order at 1:30 p.m.

MINUTES Senator Johnson moved to approve the Minutes of February 10, 2020. Senator

**APPROVAL:** Jordan seconded the motion. The motion carried by voice vote.

RS 27788 Unanimous Consent for Referral to a Privileged Committee for printing; relating to

the Idaho Roadless Rule Implementation Commission

Senator Johnson presented that RS 27788 was related to Idaho roadless rules

implementation.

**MOTION:** Senator Johnson asked for unanimous consent to send **RS 27788** to the State

Affairs Committee for a print hearing. There were no objections.

**H 426** Relating to Fish and Game; to revise provisions regarding the commission's

authority associated with tags, to revise powers and duties of the board, and

declaring an emergency.

Aaron Lieberman, Executive Director, Idaho Outfitters and Guides Association, introduced himself and reported that this bill was to perfect the changes made in legislation passed last year regarding the laws governing the allocation and designation of deer and elk tags to outfitting operations. He explained that the Idaho Outfitters and Guides Licensing Board (IOGLB) was tasked with implementing the statute according to its intent, and in conjunction with the Idaho Department of Fish and Game, the Office of the Governor, the Division of Financial Management, and hunt outfitters statewide, they developed amending language to address and solve concerns. He illustrated that this legislation does not make changes to fundamental concepts of the law and will have no effect on dedicated or General Funds; rather, it provides germane agencies with the authority and direction they have requested while providing predictability and opportunities for growth for outfitters.

**TESTIMONY:** Paul Kline, Deputy Director Programs/Policy, Idaho Department of Fish and Game

(IDFG), stated IDFG supported **H 426** since they worked closely with IOGLB regarding outfitter tag allocation. He reported these amendments would make this

section of statute easier to understand.

**DISCUSSION:** Senator Johnson inquired regarding new definitions in Title 36 and if it was

reviewed to see if there were any duplicate definitions. **Mr. Kline** advised that both agencies' deputy attorney generals reviewed the sections for duplication, to add

definitions, and provide clarity.

**TESTIMONY:** John Watts, Boulder Creek Outfitters, detailed to the Committee that his organization was in complete support of the bill and they participated in the negotiation process. He stated that it took a long time to get it to this point and they were satisfied with the results. **MOTION:** Senator Stennett moved to send H 426 to the floor with a do pass recommendation. Vice Chairman Brackett seconded the motion. The motion carried by voice vote. Senator Stennett will carry the bill on the floor. **ADJOURNED:** There being no further business at this time, Chairman Heider adjourned the meeting at 1:41 p.m. Senator Heider Erin Miller Secretary Chair

#### **AGENDA**

# SENATE RESOURCES & ENVIRONMENT COMMITTEE 1:30 P.M.

## Room WW55 Wednesday, February 26, 2020

SUBJECT	DESCRIPTION	PRESENTER
GUBERNATORIAL APPOINTMENTS:	The Gubernatorial Appointment of Brian Beckley to the Idaho Parks and Recreation Board.	Brian Beckley
	The Gubernatorial Appointment of Cally Roach to the Idaho Parks and Recreation Board.	Cally Roach
<u>H 396</u>	Relating to shooting ranges; to provide addition powers and duties of the Fish and Game Commission, to identify suitable land for shooting ranges, to provide for the public shooting range fund.	Representative Nilsson Troy
H 493	Relating to Fish and Game; to provide for archery and muzzleloader permit fees for disabled American veterans.	Senator Den Hartog

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

<u>COMMITTEE MEMBERS</u> <u>COMMITTEE SECRETARY</u>

Chairman HeiderSen PatrickErin MillerVice Chairman BrackettSen GuthrieRoom: WW37Sen BairSen StennettPhone: 332-1323

Sen Johnson Sen Jordan Email: sres@senate.idaho.gov

Sen Mortimer

#### **MINUTES**

## SENATE RESOURCES & ENVIRONMENT COMMITTEE

**DATE:** Wednesday, February 26, 2020

TIME: 1:30 P.M.

PLACE: Room WW55

**MEMBERS** Chairman Heider, Vice Chairman Brackett, Senators Bair, Mortimer, Patrick,

**PRESENT:** Guthrie, Stennett, and Jordan

ABSENT/ Senator Johnson

EXCUSED:

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with

the minutes in the committee's office until the end of the session and will then be

located on file with the minutes in the Legislative Services Library.

**CONVENED:** Chairman Heider called the meeting of the Senate Resources and Environment

Committee (Committee) to order at 1:30 p.m.

GUBERNATORIAL APPOINTMENT:

The Gubernatorial Appointment of Brian Beckley to the Idaho Parks and

Recreation Board.

**Brian Beckley** introduced himself and his background, and informed the Committee that he has loved the outdoors since he was young, especially hunting, fishing, and hiking. He is the Chief Operations Officer of Biomark, Inc.,

a fish and wildlife company that works with endangered species.

**DISCUSSION:** Senator Stennett inquired about the work of Biomark, Inc. and Mr. Beckley

explained that it is a fish and wildlife specific research company specializing in radio-frequency identification (RFID) tags to tag species and be able to track them for research. **Senator Stennett** further inquired about what Mr. Beckley will lend to the Parks and Recreation Department, what specific expertise he brings. **Mr. Beckley** indicated he has strong leadership ability, the ability to think strategically, build teams, and work with others; he will contribute by creating

vision and helping to get their work completed.

Chairman Heider announced that a vote on this appointment will take place at

the next Committee meeting.

GUBERNATORIAL APPOINTMENT:

The Gubernatorial Appointment of Cally Roach to the Idaho Parks and

Recreation Board (Board).

**Cally Roach** introduced herself and said she was honored to be asked to serve on the Board and pleased to be in the role. She loves the outdoors, recreation, fly fishing, and skiing. She discussed her experience on various boards, passion

for governance, and feeling that it is an important responsibility.

**DISCUSSION:** Senator Patrick disclosed he has known Ms. Roach for some time.

**Vice Chairman Brackett** asked Ms. Roach what areas of particular interest would she pursue or contribute to the Board. **Ms. Roach** stated presently she is learning as much as she can before interjecting herself. She understands that Idaho parks are wearing out due to growth, and funding is needed for

maintenance.

Chairman Heider announced that a vote on this appointment will take place at

the next Committee meeting.

H 396

Relating to shooting ranges; to provide additional powers and duties of the Fish and Game Commission, to identify suitable land for shooting ranges, to provide for the public shooting range fund.

Representative Nilsson Troy, District 5, brought a letter from Brian Judy of the National Rifle Association of America and asked the page to distribute to the Committee members (see attachment 1). She explained this bill aligns with the Target Practice and Marksmanship Training Support Act adopted into law in 2019. It promotes firearm safety, training, and the enjoyment of shooting sports, and provides states with greater opportunities to use Pittman-Robertson Federal Aid in Wildlife Restoration Act (Pittman-Robertson) funds for hunter safety and range development. She advised that this bill would reduce the state's share of match for Pittman-Robertson from 30 percent to 10 percent and it expands the time to construct ranges from two to five years. She expounded that as more land is being developed for residential and commercial uses, shooting ranges are being crowded out of their locations by the developments encroaching into the traditional buffer zones of rural land. This bill provides for the maintenance of existing ranges, construction of new ranges, and assists in the relocation where necessary; by declaring that public shooting ranges are for public use and an appropriate purchase for the development of Idaho Department of Fish and Game (IDFG) land. She detailed the state matching fees, fines, and fees being charged, and what monies goes into a Public Shooting Range Fund to be administered by IDFG for shooting range development and hunter education.

DISCUSSION:

**Senator Stennett** asked about range locations and jurisdiction of shooting ranges. **Representative Nilsson Troy** explained that ranges can apply for funds to relocate, and to assist in challenges that arise of being too close to community areas. This bill guides the IDFG director in working with the local communities and codes to find the best range location.

**TESTIMONY:** 

**Paul Kline**, Deputy Director Programs/Policy, IDFG, clarified what the role of IDFG is in developing shooting ranges. He explained this bill focuses on the development of public shooting ranges in Idaho. He pointed out the bill establishes safe shooting ranges on public land, sets aside a public shooting range fund for the funding of public ranges, and how funds received from Pittman-Robertson, \$550,000 annually, will be distributed.

**DISCUSSION:** 

**Senator Stennett** and **Mr. Kline** discussed the three primary ranges IDFG currently controls, as well as the difference between those and private clubs which are not involved with IDFG. **Mr. Kline** stated that the IDFG is not getting into the shooting range business. They further discussed range jurisdiction.

**Senator Patrick** and **Mr. Kline** discussed how potential conflicts, especially around no-shooting zones, would need to be avoided and the need for both new and relocated shooting ranges to be carefully located.

**Senator Guthrie** inquired about how many private ranges are located in Idaho and if there were conflicts to compete against these private ranges. **Mr. Kline** specified that to his knowledge it has never been brought to IDFG's attention that any public range is in conflict with a private range. They also discussed the funding model for cost sharing from other partners to be able to participate, the application process with respect to costs, and the distribution of the Pittman-Robertson funds through committee decision.

**TESTIMONY:** 

**Benn Brocksome**, Idaho Sportsman Alliance, stated that their member sportsmen are looking for additional opportunities to learn and practice and this bill will help with that, asking the Committee send it to the floor with do pass recommendation.

**Michael Gibson**, Trout Unlimited, specified that he sits as the chair of the Boise Bureau of Land Management Resource Advisory Committee and they struggle with shooting issues on Bureau of Land Management land. There are confrontations between shooters and people recreating. He was encouraged that this bill would assist with managing public land as the population in Idaho increases.

MOTION:

**Vice Chairman Brackett** moved to send **H 396** to the floor with a **do pass** recommendation. **Senator Bair** seconded the motion. The motion carried by **voice vote**. Vice Chairman Brackett will carry the bill on the floor.

H 493

Relating to Fish and Game; to provide for archery and muzzleloader permit fees for disabled American veterans.

**Senator Den Hartog**, District 22, provided background on this bill and stated it will bring the Disabled American Veterans (DAV) archery and muzzleloader permit fees into alignment with current DAV hunting license discounted fees. She detailed the fiscal impact and acknowledged that IDFG would possibly experience a revenue loss of \$18,000, based upon prior year permit sales. She reported this matter was important to her constituents, and referred to testimony from one of her constituents who was unable to be present before the Committee, reading a letter from LtCol Mitchell A. Jaurena, USMC (ret) (see attachment 2).

DISCUSSION:

**Senator Stennett** and **Senator Den Hartog** discussed how the revised fee was decided upon.

In response to Committee questions, **Mr. Kline** discussed how may DAVs this change would affect, answering specifics based upon 2019 sales. He stated the majority of permits are for archery with the minority being muzzleloader.

MOTION:

**Senator Guthrie** moved to send **H 493** to the floor with a **do pass** recommendation. **Senator Patrick** seconded the motion. The motion passed by **voice vote**. Senator Den Hartog will carry the bill on the floor.

ADJOURNED:

There being no further business at this time, **Chairman Heider** adjourned the meeting at 2:19 p.m.

Senator Heider	Erin Miller
Chair	Secretary



#### NATIONAL RIFLE ASSOCIATION OF AMERICA

INSTITUTE FOR LEGISLATIVE ACTION 555 CAPITOL MALL, SUITE 625 SACRAMENTO, CALIFORNIA 95814 (916) 446-2455

STATE & LOCAL AFFAIRS DIVISION BRIAN JUDY, IDAHO STATE DIRECTOR

TO:

Senate Resources & Environment Committee

FROM:

Brian Judy, NRA-ILA Idaho State Director

DATE:

February 25, 2020

RE:

House Bill 396 - SUPPORT

On behalf of the tens of thousands of National Rifle Association members who live in the state of Idaho, I would like to register strong support for House Bill 396.

HB 396 would: 1) Authorize the Fish & Game (F&G) Commission to develop, operate and maintain public shooting ranges and to assist in the location or relocation of shooting ranges; 2) Empower the F&G Director to consult with other agencies to identify land suitable for shooting ranges; and 3) Establish a Public Shooting Range Fund for the purpose of establishing and preserving public shooting ranges throughout Idaho.

Firearm shooting ranges have established a long tradition of service to a wide variety of citizen groups in local communities. They serve as training facilities for law enforcement officials and military personnel, they offer firearm and hunter education and safety courses which provide invaluable hands-on instruction in the safe and proper handling and use of firearms and they serve as a location to hold both informal practice sessions and organized competitions for those engaged in recreational shooting.

It is important that the State of Idaho commit adequate attention and resources to help maintain the current ranges and help provide new facilities when the demand presents itself. The provision of safe places for law-abiding citizens to use their firearms is of paramount importance in a state like Idaho which has such a strong tradition of firearms ownership and use.

The preservation of existing shooting ranges and the establishment of new ranges in Idaho will provide real benefits to Idaho's law-abiding firearm users and to the public at large.

The members of the National Rifle Association urge your support for House Bill 396.

LtCol Mitchell A. Jaurena, USMC (ret) 2138 S. Alaska Way Meridian, ID 83642

Written Testimony for the Senate Resources and Environment Committee meeting of Feb 26, 2020

Mr. Chairman,

I am submitting written testimony in favor of H 493 in lieu of in person testimony as I have a conflicting Veterans Administration medical appoint at 1 PM on the 26<sup>th</sup> of February.

I am a combat disabled Veteran with a VA rating of 80%. Because of my disabilities I am unable to penetrate as deeply into the hunting units in search of game as a fully capable hunter and when I harvest game, I am unable to pack it out great distances. Because of this I choose to hunt archery and muzzleloader seasons as those seasons are generally less crowded and generally happen earlier than the crowded general rifle season and before the game has been driven deeper into the units by hunting pressure.

The issue is that when I go to purchase my licenses and tags that the muzzleloader and archery certifications are eight times the cost of my DAV combined hunting and fishing license.

This bill reduces this cost and returns parity to the relative cost of certification to DAV license.

I ask that you pass this out of committee with a Do Pass recommendation to the floor.

Respectfully submitted,

Mitchell A. Jaurena LtCol USMC (ret)

# AMENDED AGENDA #1 SENATE RESOURCES & ENVIRONMENT COMMITTEE 1:30 P.M.

# Room WW55 Monday, March 02, 2020

SUBJECT	DESCRIPTION	PRESENTER
MINUTES APPROVAL:	Committee approval for Minutes of the February 12, 2020 meeting.	Senator Jordan
	Committee approval for Minutes of the February 17, 2020 meeting.	Senator Stennett
	Committee approval for Minutes of the February 19, 2020 meeting.	Senator Mortimer
	Committee approval for Minutes of the February 24, 2020 meeting.	Senator Patrick
VOTE ON GUBERNATORIAL APPOINTMENTS:	Committee vote on the appointment of Brian Beckley to the Idaho Parks and Recreation Board.	
	Committee vote on the appointment of Cally Roach to the Idaho Parks and Recreation Board.	
<u>S 1368</u>	Relating to the Idaho Roadless Rule, to revise provisions regarding the implementation commission.	Senator Johnson
RS27898	Unanimous Consent for Referral to a Privileged Committee for printing; a concurrent resolution to develop a settlement to resolve competing water supply demands in the Lemhi River Basin	Vice Chairman Brackett

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS		COMMITTEE SECRETARY
Chairman Heider	Sen Patrick	Erin Miller
Vice Chairman Brackett	Sen Guthrie	Room: WW37
Sen Bair	Sen Stennett	Phone: 332-1323
Sen Johnson	Sen Jordan	Email: sres@senate.idaho.gov

Sen Mortimer

#### MINUTES

### SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, March 02, 2020

TIME: 1:30 P.M.

PLACE: Room WW55

**MEMBERS** Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer,

PRESENT: Patrick, Guthrie, Stennett, and Jordan

ABSENT/ None

**EXCUSED:** 

NOTE: The sign-in sheet, testimonies and other related materials will be retained with

the minutes in the committee's office until the end of the session and will then be

located on file with the minutes in the Legislative Services Library.

Chairman Heider called the meeting of the Senate Resources and Environment CONVENED:

Committee (Committee) to order at 1:32 p.m.

**MINUTES** Senator Jordan moved to approve the Minutes of February 12, 2020. Senator

APPROVAL: **Mortimer** seconded the motion. The motion passed by **voice vote**.

> Senator Mortimer moved to approve the Minutes of February 19, 2020. **Senator Jordan** seconded the motion. The motion passed by **voice vote**.

Senator Patrick moved to approve the Minutes of February 24, 2020. Vice Chairman Brackett seconded the motion. The motion passed by voice vote.

**GUBERNATORIAL** APPOINTMENT:

Senator Mortimer moved to send the Gubernatorial appointment of Brian Beckley to the Idaho Parks and Recreation Board to the floor with the recommendation that he be confirmed by the Senate. Senator Patrick seconded the motion. The motion carried by voice vote.

Senator Patrick moved to send the Gubernatorial appointment of Cally Roach to the Idaho Parks and Recreation Board to the floor with the recommendation that she be confirmed by the Senate. Vice Chairman Brackett seconded the

motion. The motion carried by voice vote.

S 1368 Relating to the Idaho Roadless Rule, to revise provisions regarding the

implementation commission.

Senator Johnson, from District 6, stated this bill amends Idaho Code § 67-826 establishing the Idaho Roadless Rule Implementation Commission (Commission), a 15-person commission appointed by the Governor, which reviews and evaluates proposed projects occurring within Idaho roadless areas on United States Forest Service (Forest Service) lands. He explained these changes would make the Commission more responsive to the state, and in particular to the House and Senate resources committees. It also edits language regarding what the Commission's roles are. He commented on bill specifics and how the Commission's members would be appointed and their terms. The Commission would need to submit an annual report to the Committee and the House Resources and Conservation Committee reflecting the activities of the Commission and setting forth the membership thereof.

DISCUSSION: Senator Stennett and Senator Johnson discussed the policies on how the Commission shall coordinate and develop policies related to the implementation and interpretation of the Idaho Roadless Rule versus compelling the Forest Service into action: how the Commission and Forest Service are working together; and the number of appointed commissioners. TESTIMONY: Sam Eaton, Director of Policy and Legal Counsel, Office of the Governor, stated he had worked with the Commission. He explained the intent of this legislation was to model changes from successes the Governor's office has already seen in Idaho, and to treat the Commission as partners versus stakeholders. He detailed the meaningful coordination already had with the Commission, that it was a collaborative effort from the outset, and the Commission's work with 9.3 million acres of Forest Service land developing policies and projects in roadless areas. He clarified that federal code guides the roadless rules. He confirmed that the Commission's membership of 15 would be brought down to 9 to 12 members, one reason being because it is difficult to find commissioners to serve on the Commission. He clarified there are one to two vacancies most of the time, therefore they felt it was an appropriate number and close to the number that currently operates the Commission. The Governor's office supports this legislation being sent to the floor with a do pass recommendation. DISCUSSION: Senator Stennett and Mr. Eaton discussed the details regarding appointment of officials, and the reasons for the need for this legislation. Senator Johnson asserted how this bill not only improves the process of appointing Commission members, it also furthers communication; it being important for the Legislature to be apprised on how Idaho roadless lands are being managed. MOTION: Senator Mortimer moved to send S 1368 to the floor with a do pass recommendation. Senator Bair seconded the motion. The motion carried by voice vote. Senator Johnson will carry the bill on the floor. RS 27898 Unanimous Consent for Referral to a Privileged Committee for printing; a concurrent resolution to develop a settlement to resolve competing water supply demands in the Lemhi River Basin. Vice Chairman Brackett asked for unanimous consent to send RS 27898 to a MOTION: privileged committee for a print hearing. There were no objections.

meeting at 2:01 p.m.

**Bair** seconded the motion. The motion passed by **voice vote**.

Senator Stennett moved to approve the Minutes of February 17, 2020. Senator

There being no further business at this time, Chairman Heider adjourned the

**MINUTES** 

APPROVAL:

ADJOURNED:

Senator Heider

Chair

Erin Miller Secretary

#### **AGENDA**

# SENATE RESOURCES & ENVIRONMENT COMMITTEE 1:30 P.M.

# Room WW55 Wednesday, March 04, 2020

SUBJECT	DESCRIPTION	PRESENTER
MINUTES APPROVAL:	Committee approval for Minutes of the February 26, 2020 meeting.	Senator Guthrie
<u>HJM 14</u>	House Memorial by House Ways and Means Committee; to recognize the importance of mining in the history, development, and future of the Gem State.	Benjamin J. Davenport, Executive Vice President, Idaho Mining Association
H 528	Relating to Fish and Game; regarding the unlawful killing, possession, or wasting of wildlife.	Senator Bair
<u>H 544</u>	Relating to Fish and Game; regarding Wildlife Management Areas, upland game birds, and provide for hunting locations where pheasants are stocked.	Vice Chairman Brackett
H 545	Relating to Fish and Game; regarding game tags for swan.	Vice Chairman Brackett

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS		COMMITTEE SECRETARY
Chairman Heider	Sen Patrick	Erin Miller
Vice Chairman Brackett	Sen Guthrie	Room: WW37
Sen Bair	Sen Stennett	Phone: 332-1323
Sen Johnson	Sen Jordan	Email: sres@senate.idaho.gov
Sen Mortimer		

#### MINUTES

### SENATE RESOURCES & ENVIRONMENT COMMITTEE

**DATE:** Wednesday, March 04, 2020

**TIME:** 1:30 P.M.

PLACE: Room WW55

**MEMBERS** Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer,

**PRESENT:** Patrick, Guthrie, Stennett, and Jordan

ABSENT/ None

EXCUSED:

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with

the minutes in the committee's office until the end of the session and will then be

located on file with the minutes in the Legislative Services Library.

**CONVENED:** Chairman Heider called the meeting of the Senate Resources and Environment

Committee (Committee) to order at 1:30 p.m.

MINUTES Senator Guthrie moved to approve the Minutes of February 26, 2020. Senator

**APPROVAL:** Jordan seconded the motion. The motion carried by voice vote.

HJM 14 House Memorial by House Ways and Means Committee; to recognize the

importance of mining in the history, development, and future of the Gem State.

Benjamin J. Davenport, Executive Vice President, Idaho Mining Association, stated that it was the discovery of gold in 1860 in what is now known as Pierce, Idaho, which started the settlement of the state and brought us into a territory and statehood. He expounded that mining, the miners themselves, and the products they provide have played a significant role in shaping Idaho. This memorial recognizes mining contributions to Idaho's past, and the role it plays on our state's and nation's future. It also asks the Legislature to support the federal and state agencies in their efforts to modernize policies that encourage responsible mixed

use on public lands.

MOTION: Senator Guthrie moved to send HJM 14 to the floor with a do pass

recommendation. Senator Mortimer seconded the motion. The motion passed by

voice vote. Senator Johnson will carry the bill on the floor.

H 528 Relating to Fish and Game; regarding the unlawful killing, possession, or wasting of

wildlife.

**Senator Bair** reported that this bill deals with a recent Idaho Court of Appeals opinion, issued on February 7, 2020, involving it being a felony to unlawfully kill, possess, and/or waste wildlife if the value of the animal is \$1,000 or more. The court changed that threshold by interpreting the law that two or more animals needed to be involved. He detailed that this bill changes the language to apply the traditional application of the law, to make it clear that it is a felony to unlawfully kill, posses, and/or waste a single trophy animal, or multiple animals, whose value is equal to or greater than \$1,000.

MOTION: Senator Mortimer moved to send H 528 to the floor with a do pass

recommendation. Senator Guthrie seconded the motion.

**TESTIMONY:** 

**Paul Kline**, Deputy Director Programs/Policy, Idaho Department of Fish and Game (IDFG), stated that this bill would restore the application of statute making it clear that it is a felony to unlawfully kill, possess, or waste, within a 12-month period, a single animal or a combination of animals whose value is greater than \$1,000. He advised that IDFG commission supports the bill.

**Vice Chairman Brackett** asked how the monetary value for animals is determined. **Mr. Kline** spelled out that those values are defined in statute and based upon the trophy animals listed in Idaho Code § 36-1404 which defines the category values.

**VOICE VOTE:** 

The motion to send **H 528** to the floor with a **do pass** recommendation carried by **voice vote**. Senator Bair will carry the bill on the floor.

H 544

Relating to Fish and Game; regarding Wildlife Management Areas, upland game birds, and provide for hunting locations where pheasants are stocked.

Vice Chairman Brackett, stated that this bill addresses an IDFG priority to provide additional hunting opportunities for stocked pheasants. He noted that the contents of this bill were originally part of S 1237, which the Committee, and subsequently the Senate, approved; it was rewritten in the House to two separate bills and this bill addresses stocked pheasants. Current law limits the permit hunting requirement for stocked pheasants to state wildlife management areas. This bill amends Idaho Code to identify that an upland game bird permit is required to hunt stocked pheasants on IDFG owned lands and/or lands managed under agreement with the IDFG, and private lands enrolled in an IDFG sponsored public access program, with written permission of the land owner. This bill also amends Idaho Code § 36-1401 to expand the current requirement to wear hunter orange when hunting in locations where pheasants are stocked and the upland game bird permit is required. He reviewed that the fees have not changed.

**Senator Stennett** and **Vice Chairman Brackett** discussed if this bill was not substantially changed in the house, if it was against the rules to return it to our Committee; and that splitting the prior senate bill apart to two separate house bills, with the difference in wording, must have been substantial enough.

TESTIMONY:

**Benn Brocksome**, representing the Idaho Sportsman Alliance (ISA), stated that as he understood it, the House's concern regarding this bill was the way that access was provided; written permission from landowners is now required and mandated. He stated that the ISA supports this bill and **H 545**, and referenced the letters in support from ISA's president (see attachment 1).

**DISCUSSION:** 

In response to questions from the Committee, **Ed Schriever**, Director, IDFG, informed that the Joint Finance-Appropriations Committee's (JFAC) action would be to separate the line item to expand the item into trailer program funding for this pheasant stocking program. This would happen once both legislative bodies vote on the bill; it has not been addressed yet as that would have been premature. **Senator Bair** confirmed the JFAC budget issues and how the trailer bill would be passed through JFAC after legislation has passed.

**TESTIMONY:** 

**Mr. Kline** stated this bill is responsive to what hunters have asked IDFG to provide and the IDFG commission supports this bill.

**DISCUSSION:** 

**Senator Guthrie** and **Mr. Kline** discussed the program being expanded to private landowners and if/how they were to be paid for the stocking to occur, the IDFG sponsored public program, and the Access Yes! eligible landowners.

In response to Committee inquiry, **Mr. Schriever** reported that IDFG does not plan to discontinue the stocking of pheasants, the bill wording was provided for clarity and inclusion of current properties and new properties. There is some very high-quality habitat on private lands which are recommended to IDFG and are reviewed by a committee for the best value for the sportsman participating in the program.

**TESTIMONY:** 

Ellary TuckerWilliams, Inter-Mountain Western States Coordinator of the Congressional Sportsmen's Foundation, submitted written testimony in support of this bill and **H 545** (see attachment 2).

MOTION:

**Senator Mortimer** moved to send **H 544** to the floor with a **do pass** recommendation. **Senator Bair** seconded the motion. The motion passed by **voice vote**. Vice Chairman Brackett will carry the bill on the floor.

H 545

Relating to Fish and Game; regarding game tags for swan.

Vice Chairman Brackett explained that the IDFG commission is proposing a three-year experimental swan hunting season and the content was originally part of S 1237. He stated it amends Idaho Code § 36-409 to add swan to the list of game animals that an Idaho resident may hunt with a tag, with the swan hunt limited to tundra swans. There will be 50 tags offered through a controlled hunt process. In comparison, Montana gives 1,000 swan tags and started their program in 1970; Utah allows 2,700 swan tags and started doing so in 1962; Nevada releases 600 swan tags with their program starting in 1969. For clarification, most of the tundra swans are in the panhandle region of Idaho.

**DISCUSSION:** 

**Senator Jordan** and **Mr. Schriever** discussed how the bill applies to tundra swans versus trumpeter swans. **Mr. Schriever** reminded the Committee this bill has been authorized by the Pacific Flyway Council and United States Fish and Wildlife Service for a three-year experimental hunt so that IDFG can analyze how the hunt is completed and make adjustments if necessary. IDFG's intent and purpose in this bill is to harvest 50 tundra swans and not take a trumpeter swan. IDFG will evaluate this hunt process every year to make sure the hunt goes as according to plan in regards to the taking of swans.

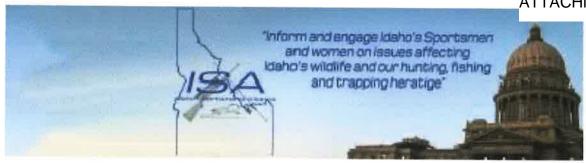
MOTION:

**Senator Bair** moved to send **H 545** to the floor with a **do pass** recommendation. **Senator Mortimer** seconded the motion. The motion passed by **voice vote**. Vice Chairman Brackett will carry the bill on the floor.

**ADJOURNED:** 

There being no further business at this time, **Chairman Heider** adjourned the meeting at 2:10 p.m.

Senator Heider	Erin Miller
Chair	Secretary



Senator Lee Heider, Chairman Senate Resources and Environment Committee Idaho State Capitol 700 W. Jefferson St. Boise, Idaho 83702

RE: ISA support of HB 544

Chairman Heider and Committee Members,

Thank you for the opportunity for the Idaho Sportsmen's Alliance (ISA) to comment on House Bill 544.

ISA supports House Bill 544. ISA also supports the expansion of pheasant hunting for more hunters in more areas. We believe in Fish and Game's expansion of the pheasant program to more areas, including leased properties and private land where appropriate and with permission. We have worked closely with legislators and have consulted with the IDF&G on this legislation. ISA believes this legislation will expand access and opportunity for sportsman in Idaho to enjoy pheasant hunting. It is also an opportunity for sportsman, IDF&G and landowners to work together with written permission from the landowners involved.

The ISA is a collection of Idaho sporting groups working together to protect and improve Idaho's wildlife heritage of hunting, fishing, and trapping, for present and future generations. ISA seeks consensus on issues important to sportsmen, provides education to the Idaho sportsmen's organizations, the Idaho Legislature and other governmental entities on sportsmen's issues. ISA seeks to be an information resource to the Legislature and other governmental entities on issues, legislation and rules affecting Idaho's wildlife heritage of hunting, fishing and trapping.

Thank you for your time and the opportunity to comment on this important issue. If you have questions, please reach out to me at (208) 569-8032.

Rob Thornberry

President, ISA



Senator Lee Heider, Chairman Senate Resources and Environment Committee Idaho State Capitol
700 W. Jefferson St.
Boise, Idaho 83702

RE: ISA support of HB 545

Chairman Heider and Committee Members,

Thank you for the opportunity for the Idaho Sportsmen's Alliance (ISA) to comment on House Bill 545.

ISA supports House Bill 545. We believe in Fish and Game using best available science in setting seasons for tundra swans. We also believe this will provide additional opportunities for hunters to have access to species in Idaho that they can currently enjoy in other surrounding states. We have worked with the IDF&G on this legislation, and we believe it will expand access and opportunity for sportsman in Idaho.

The ISA is a collection of Idaho sporting groups working together to protect and improve Idaho's wildlife heritage of hunting, fishing, and trapping, for present and future generations. ISA seeks consensus on issues important to sportsmen, provides education to the Idaho sportsmen's organizations, the Idaho Legislature and other governmental entities on sportsmen's issues. ISA seeks to be an information resource to the Legislature and other governmental entities on issues, legislation and rules affecting Idaho's wildlife heritage of hunting, fishing and trapping.

Thank you for your time and the opportunity to comment on this important issue. If you have questions, please reach out to me at (208) 569-8032.

**Rob Thornberry** 

President, ISA



Sen. Lee Heider, Chairman Senate Resources and Environment Committee Idaho State Capitol 700 W. Jefferson St. Boise, Idaho 83702

RE: CSF support of HB 544

Chairman Heider and committee members,

Thank you for the opportunity for the Congressional Sportsmen's Foundation (CSF) to comment on House Bill 544.

With over three decades in the policy arena, the Congressional Sportsmen's Foundation (CSF) works with different levels of government to advance and protect our outdoor sporting heritage and traditions. Rooted in the Congressional Sportsmen's Caucus, the largest, most active bipartisan caucus on Capitol Hill with nearly 250 Members of Congress, CSF has extended this legislative network from Washington, DC to states across the country, establishing the bipartisan National Assembly of Sportsmen's Caucuses (NASC) and the Governors Sportsmen's Caucus (GSC). Presently, NASC is comprised of 49 state legislative caucuses with over 2,500 legislators (including the Idaho Legislative Sportsmen's Caucus), while the GSC includes more than half the governors from throughout the country. Together, CSF and this collective force of bipartisan elected officials work to protect and advance hunting, angling, recreational shooting and trapping for the nearly 40 million sportsmen and women who spend over \$90 billion annually on outdoor pursuits.

CSF supports the Idaho Department of Fish and Game's (IDFG) efforts to work with your committee and the Legislature on HB 544. We applaud IDFG for working with the Pacific Flyway Council and US Fish and Wildlife Service in using best available science to establish seasons for tundra swans and support this effort.

Thank you for your time and the opportunity to comment on this important issue.

Ellary TuckerWilliams

Inter-Mountain Western States Coordinator

Ellary Tuckerte lilliams



Sen. Lee Heider, Chairman Senate Resources and Environment Committee Idaho State Capitol 700 W. Jefferson St. Boise, Idaho 83702

RE: CSF support of HB 545

Chairman Heider and committee members,

Thank you for the opportunity for the Congressional Sportsmen's Foundation (CSF) to comment on House Bill 545.

With over three decades in the policy arena, the Congressional Sportsmen's Foundation (CSF) works with different levels of government to advance and protect our outdoor sporting heritage and traditions. Rooted in the Congressional Sportsmen's Caucus, the largest, most active bipartisan caucus on Capitol Hill with nearly 250 Members of Congress, CSF has extended this legislative network from Washington, DC to states across the country, establishing the bipartisan National Assembly of Sportsmen's Caucuses (NASC) and the Governors Sportsmen's Caucus (GSC). Presently, NASC is comprised of 49 state legislative caucuses with over 2,500 legislators (including the Idaho Legislative Sportsmen's Caucus), while the GSC includes more than half the governors from throughout the country. Together, CSF and this collective force of bipartisan elected officials work to protect and advance hunting, angling, recreational shooting and trapping for the nearly 40 million sportsmen and women who spend over \$90 billion annually on outdoor pursuits.

CSF supports the Idaho Department of Fish and Game's (IDFG) efforts to work with your committee and the Legislature on HB 545. We applaud IDFG for the proposed expansion of the upland gamebird program to additional properties outside of wildlife management areas and support this effort. Such changes would complement current state and nationwide efforts to increase hunter recruitment, retention and reactivation by offering additional upland game bird hunting opportunities for sportsmen and women throughout the state.

Thank you for your time and the opportunity to comment on this important issue.

Ellary TuckerWilliams

Ellary luckerte lilliams

Inter-Mountain Western States Coordinator

# AMENDED AGENDA #1 SENATE RESOURCES & ENVIRONMENT COMMITTEE 1:30 P.M.

# Room WW55 Monday, March 09, 2020

SUBJECT	DESCRIPTION	PRESENTER
MINUTES APPROVAL:	Committee approval for Minutes of the March 2, 2020 meeting.	Senator Johnson
<u>H 547</u>	Relating to mineral rights; regarding locator work, conditions of certain mineral leases, and forfeiture of leases.	Benjamin J. Davenport, Executive Vice President, Idaho Mining Association
<u>H 565</u>	Relating to flood control districts; to provide for petitions for annexation of land.	Daniel Steenson, Attorney at Law, Sawtooth Law Offices
<u>H 592</u>	Relating to stockwater; to provide for content of orders to show cause, that certain stockwater rights are subject to forfeiture, grazing allotments, and revise provisions for limits of use.	Senator Harris
GUBERNATORIAL APPOINTMENT:	The Gubernatorial Re-Appointment of Craig Hill to the Lake Pend Oreille Basin Commission.	

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS		COMMITTEE SECRETARY
Chairman Heider	Sen Patrick	Erin Miller
Vice Chairman Brackett	Sen Guthrie	Room: WW37
Sen Bair	Sen Stennett	Phone: 332-1323
Sen Johnson	Sen Jordan	Email: sres@senate.idaho.gov
Sen Mortimer		

### MINUTES

### SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, March 09, 2020

TIME: 1:30 P.M.

PLACE: Room WW55

**MEMBERS** Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer,

PRESENT: Patrick, Guthrie, and Stennett

ABSENT/ Senator Jordan

**EXCUSED:** 

NOTE: The sign-in sheet, testimonies and other related materials will be retained with

the minutes in the committee's office until the end of the session and will then be

located on file with the minutes in the Legislative Services Library.

Chairman Heider called the meeting of the Senate Resources and Environment CONVENED:

Committee (Committee) to order at 1:31 p.m.

**MINUTES** Senator Johnson moved to approve the Minutes of March 2, 2020. Senator APPROVAL:

**Bair** seconded the motion. The motion carried by **voice vote**.

H 547 Relating to mineral rights; regarding locator work, conditions of certain mineral leases, and forfeiture of leases.

> Benjamin J. Davenport, Executive Vice President, Idaho Mining Association (IMA), explained that Idaho's miners, prospectors, and others extract minerals on state endowment lands using mineral leases governed by the State Land Board. This bill addresses the future of the leasing program. He explained the purpose of this bill is to encourage investment in mining exploration, prospecting, and operations of mining leases on endowment lands since exploration and development of a potential mineral resource can take millions of dollars and over

a decade to prove and permit. The main changes include:

allowing the terms of mining leases to continue so long as mining exploration. prospecting, or operations are being performed;

- lengthen the potential lease length;
- allow rent rates to be tiered to inflation;
- provide for the option of pre-paid royalties; and
- define rights as to access to minerals for a lease.

He expounded that this bill is supported by the IMA, its individual companies, Idaho Association of Commerce and Industry, and numerous other non-IMA firms and families that hold mineral leases or have pending lease applications

with the State. He is unaware of any opposition.

**DISCUSSION:** Senator Stennett and Mr. Davenport discussed the bill's inclusion of locations

> for exploration being the beds of all navigable rivers, being the strip of land bordering the river between the high water mark and the river, and that this

location is used for dredge and/or placer types of leases.

**TESTIMONY:** Mick Thomas, Division Administrator, Minerals, Public Trust, and Oil and Gas

for the Idaho Department of Lands, clarified that motorized exploration on the lands between the ordinary high water mark and any navigable river of the state shall be prohibited except upon written approval from the Board of Land

Commissioners. He also discussed permits and their costs.

Jeremy C. Chou, Partner, Givens Pursley, testified on behalf of his client, Keceph Mountain L.C., in support of the bill. He explained his client was a father-daughter hard rock mining operation that mines for silver and gold, and in 2013 won a public auction for a mining lease. For the past six years they have attempted to negotiate a lease and have yet to execute a lease. He detailed the main reasons why the lease has not been executed and that this bill fixes those issues.

**Wayne Hammon**, CEO of Idaho Associated General Contractors of America (AGC), explained their members mine a lot of aggregate, much of which is on state endowment lands that his members lease. AGC supports the bill and believes it will make their processes even better.

MOTION:

**Senator Guthrie** moved to send **H 547** to the floor with a **do pass** recommendation. **Vice Chairman Brackett** seconded the motion. The motion carried by **voice vote**. Senator Crabtree will carry the bill on the floor.

H 565

Relating to flood control districts; to provide for petitions for annexation of land.

**Daniel Steenson**, Attorney at Law, Sawtooth Law Offices, spoke representing Boise River Flood Control District Number Ten. He detailed that flood control districts conduct operations and undertake projects to minimize flood risk and flood damages for lands within their boundaries. He presented a powerpoint to describe what flood districts are and do (see attachment 1). This bill creates a process for flood control districts to consider and approve land owner petitions for annexation to include their land in the district, without requiring the Idaho Department of Water Resources' (IDWR) review and approval. The proposed annexation procedure is patterned after the statutory annexation procedures for irrigation districts and ground water districts. He stated that both IDWR and the Idaho Water Users Association support the bill.

**TESTIMONY:** 

**Paul Arrington**, Executive Director and General Counsel, Idaho Water Users Association, expressed their support for its legislation. He reiterated that the bill is patterned off of irrigation and groundwater districts' provisions authorizing similar annexations. It has worked for those entities and it should work well in this instance.

**MOTION:** 

**Vice Chairman Brackett** moved to send **H 565** to the floor with a **do pass** recommendation. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**. Chairman Heider will carry the bill on the floor.

H 592

Relating to stockwater; to provide for content of orders to show cause, that certain stockwater rights are subject to forfeiture, grazing allotments, and revise provisions for limits of use.

**Senator Harris** discussed that the Idaho Supreme Court ruled in *Joyce Livestock Company vs. United States of America* (*Joyce*) that the federal government cannot hold water rights without owning livestock. This bill cleans up and addresses forfeiture and adds a new section. He informed that if the director of water resources finds that a stockwater right has not been put to beneficial use for a term of five years, applying to anyone that has a stockwater right, the director shall issue an order to show cause. If there is no response to the show cause order, the right will be considered forfeited. This change to the current law only applies to the federal government not using stockwater for beneficial use.

TESTIMONY:

Bill Myers, Partner, Holland & Hart, spoke as a representative of the offices of the Senate President Pro Tempore and the Speaker of the House. He noted that Representative Bedke asked him to talk about his support for this bill. Mr. Myers provided background information about the Idaho Supreme Court unanimously entered decision in *Joyce* and addressed the question of the federal government's non-use of stockwater on federal grazing allotments. In 2017 the Legislature codified the *Joyce* decision and prevented the federal government from holding the rights, and set up a forfeiture process. In 2018 some concerns were raised by the federal agencies regarding the forfeitures directed to them. This bill is neutral in its application to any stockwater user in the state and sets up a procedural mechanism that is already codified in Idaho water law. It is important to note this only affects de minimus stockwater, which is 13,000 gallons a day or less.

DISCUSSION:

Senator Bair asked if the federal government had been consulted and if they will accept this piece of legislation. Mr. Myers noted that some federal employees were in the audience and that he could not speak for them. He stated they had been in extended discussion with the Bureau of Land Management, the United States Forest Service, and the Department of Justice over some years, and that Speaker Bedke had been actively involved in the discussions.

Senator Stennett and Mr. Myers discussed the fiscal note and what this procedural mechanism would cost IDWR.

MOTION: **Senator Bair** moved to send **H 592** to the floor with a **do pass** recommendation.

**Senator Mortimer** seconded the motion.

**TESTIMONY:** Kathleen Marion Carr, Field Solicitor, United States Department of the Interior,

stood to request that her client speak to this bill. June Shoemaker, Deputy State Director for Resources and Science, Idaho Bureau of Land Management (BLM), Idaho State Office, spoke to the Committee in opposition to this bill as stockwater rights are of critical importance to BLM Idaho. She read her written

testimony (see attachment 2).

Vice Chairman Bracket declared a possible conflict of interest pursuant to

Senate Rule 39(H), but intended to vote.

TESTIMONY: Mr. Myers clarified that the State would have to take a stand on where it believes

it has its rights under existing water law, and on the ability of the State to control

those water rights as a key property right of the State.

SUBSTITUTE

Senator Stennett moved that H 592 be held in Committee until the next MOTION: Committee meeting to solve potential differences. The motion failed for lack

of a second.

VOICE VOTE: The motion to send **H 592** to the floor with a **do pass** recommendation carried by

voice vote, with Senator Stennett requesting that she be recorded voting nay.

Senator Harris will carry the bill on the floor.

GUBERNATORIAL APPOINTMENT:

The Gubernatorial Reappointment of Craig Hill to the Lake Pend Oreille Basin

Commission (Commission).

Chairman Heider explained that Mr. Hill left the country yesterday and was not returning until after the session ends. He reminded the Committee that this was a reappointment and that Mr. Hill had been on the Commission since its inception.

MOTION: Senator Mortimer moved to send the Gubernatorial reappointment of Craig Hill

to the Lake Pend Oreille Basin Commission to the floor with recommendation

that he be confirmed by the Senate. **Senator Bair** seconded the motion.

• • • • • • • • • • • • • • • • • • • •		
The motion to send the Gubernatorial reappointment of Craig Hill to the Lake Pend Oreille Basin Commission to the floor with a recommendation that he be confirmed by the Senate carried by <b>voice vote</b> . Senator Woodward will carry the appointment on the floor.		
nis time, <b>Chairman Heider</b> adjourned the		
Erin Miller Secretary		

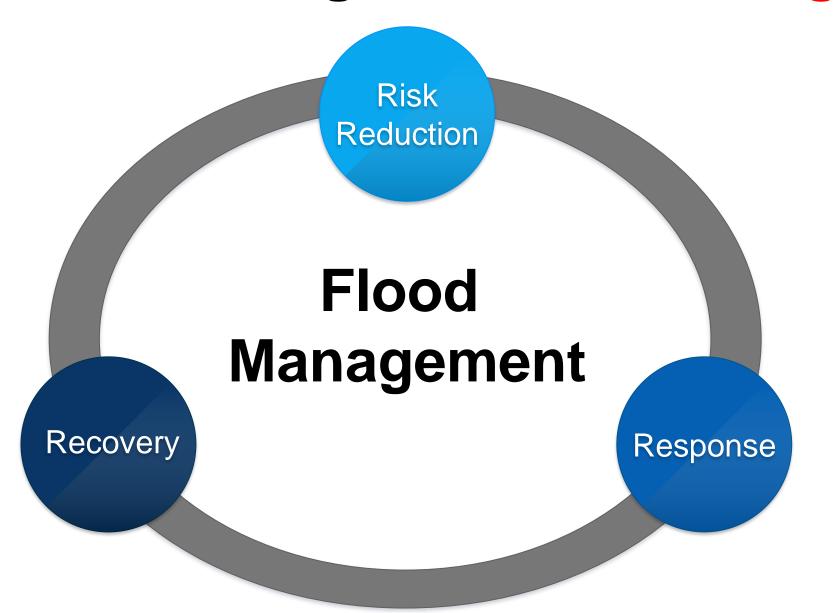


## Boise River Flood Control District #10

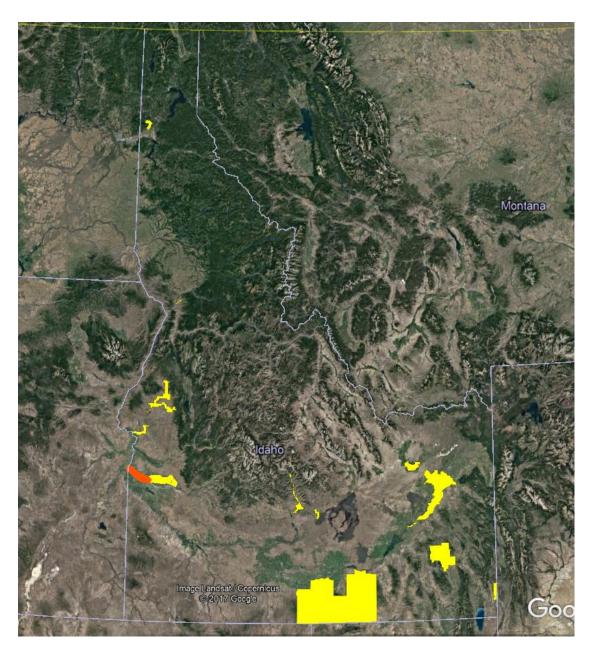
## Flood Management

- Bill Clayton, Chairman
- Mike Dimmick, District Manager

## Flood Management is On-Going



### **Idaho Flood Control Districts**



FCD 1: Snake River (Madison, Jefferson, Bonneville, & Bingham Counties)

FCD 2: Little Wood River

FCD 3: Washington

County

FCD 5: Mud Lake

FCD 6: White Bird

FCD 7: Blackfoot River

FCD 9: Big Wood River

FCD 10: Boise River

(Plantation Golf Course to

Caldwell)

FCD 11: Boise River

(Caldwell to Snake River)

FCD 15: Raft River

FCD 16: Goose Creek

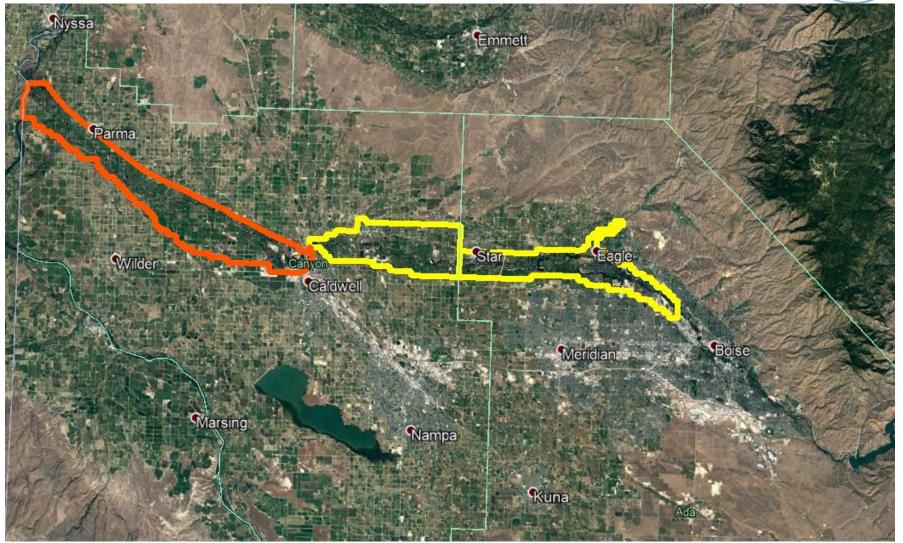
FCD 17: Twin Lakes-

Rathdrum Creek

FCD 18: Teton Creek

## **Lower Boise River Watershed www.boiseriver.org**





### **Flood Control District Authority**



### Idaho Code § 42-3115(14)

- Construct, operate & maintain flood control structures
  - Barbs, levees, gravel management
- Declare a flooding emergency and fight floods
- Repair and stabilize stream banks
- Remove debris
- Provide assistance to repair canal & ditch breaks

### **2017 Flood Damages**

Control Districe

- River Channel Damage
  - Streambanks
  - Gravel Deposits
  - Major Woody Debris Accumulation
  - Eagle Island Flow Split
- 2. Public Infrastructure
  - Riverside Parks
  - Green Belt Pathways
  - Roads & Bridges
  - Utilities
- 3. Private Property Damage
  - Irrigation Facilities
  - Subdivisions & Homes, Ag. Land

### **Boise River 2017: Channel Damage & Flooding**









### **Duck Alley Pit Capture: Before & After flooding**





## Duck Alley Pit Capture: After Flooding (2017)





### **Flood Management Phases**



### During the Flood - Flood Response

- Flood Assessment
- Public Information and Outreach
- Flood Fight
  - Mitigate/Reduce Flows (Damage & Extent Possible)
  - Temporary Structures
  - Remove Obstructions

### Flood Response – During the Flood









### **Flood Management Phases**

# Control District

### After the Flood - Flood Recovery

- Flood Damage Assessment
- Prioritization
  - Immediate
  - Next season
  - Long term
  - On-going
- Public Information and Outreach
- Implement Repairs

## Flood Recovery - After the Flood



### **Flood Management Phases**

### Before the Flood - Flood Risk Reduction

Control Districe

- Flood Risk Assessment
- Planning & Implementation
  - River Channel Maintenance
    - Obstruction Removal
    - Bank Stability
  - Flood-Wise Development
- Flood Readiness
- Public Information and Outreach

### Flood Risk Reduction - Before the Flood

(an ounce of prevention is worth a pound of cure)



### **Eagle Bridge North Channel**



2010 2017





2016 2019





Statement of June Shoemaker, Deputy State Director for Resources and Science, Bureau of Land Management, Idaho State Office, in Opposition to HB 592

Good Afternoon, I'm June Shoemaker, I'm the Deputy State Director for Resources and Science with the Bureau of Land Management Idaho State Office here in Boise. I'm joined today by Jennifer Jones, Deputy State Director for Communications for BLM Idaho and John Murdock and Kathleen Carr with the U.S. Department of the Interior Solicitor's Office. Thank you for the opportunity to address you today on behalf of BLM Idaho.

BLM Idaho greatly appreciates the Idaho Legislature's interest in stockwater rights. This is an issue of critical importance to BLM Idaho as the manager of approximately 12 million acres of public land in the State. BLM Idaho manages approximately 1,885 grazing permits and leases that provide for 1.3 million Animal Unit Months of forage on 2,100 livestock grazing allotments on public land in Idaho.

The Idaho BLM urges that HB 592 *not* be approved in its current form, but we stand ready to work with this committee to craft a bill that can resolve matters stemming from the *Joyce Livestock* decision and withstand legal scrutiny.

HB 592 makes important improvements over 2017's SB 1111 and 2018's HB 718, statutes that went well beyond the *Joyce Livestock* decision itself. Helpfully,

HB 592 proposes to modify SB 1111 to allow livestock owners to act as agents in retaining the United States stockwater rights. The possibility of an agency relationship was a pathway specifically recognized in the *Joyce Livestock* decision itself. This proposed change is a welcome development and suggests to the Idaho BLM that HB 592 could eventually become a bill that we could fully support.

To this point, though, the bill has moved at lightning speed through the Legislature, having just been introduced on March 3<sup>rd</sup> and having already passed the House. Now, it is before this committee in the Senate and we are here having only learned of the bill's existence late last week. The BLM recognizes that time is relatively short in the legislative session, but we believe that there is adequate time to work together to modify this bill in a way that can resolve rather than prolong the issues surrounding stockwater rights.

While HB 592 eliminates the explicit mass forfeiture proceeding that was created under HB 718 in 2018, it still allows for the possibility of such large-scale forfeiture proceedings utilizing existing state law that has long sat dormant. It is very much an open legal question whether Idaho or any other state can extinguish a United States property right through a forfeiture statute. In 1960, for example, a federal district court in New Mexico held that a statute very similar to Idaho Code 42-222(2) could not be applied against the federal government.

I do not wish to dive into the details of the legal and policy issues today, but instead I have come here on short notice simply to ask the committee to push the *pause* button so that we can work together to address the remaining issues. In recognition of the calendar and the limited time left in this session, I pledge that the Idaho BLM would work intensely with members and staff in the coming days. We believe that this process can be done in days, not weeks or months.

HB 592 provides us all with a chance to resolve the uncertainty that has surrounded stockwater rights since the *Joyce Livestock* decision. In its current form, however, the BLM is not able to support HB 592 and we worry that its passage could ultimately result in litigation. It is our strong preference to work together to craft a bill that eliminates rather than creates legal risks. We urge that the committee not send HB 592 on to the full Senate today, but instead create a window of time for us to work together.

Thank you again for the chance to provide this information to you today.

### **AGENDA** SENATE RESOURCES & ENVIRONMENT COMMITTEE 1:00 P.M.

### Room WW55 Wednesday, March 11, 2020

SUBJECT **DESCRIPTION PRESENTER** 

**HONORING OF** 

PAGE:

**HJM 15** 

Lexi Rich

Chairman Heider

Vice Chairman

**MINUTES** Committee approval for the Minutes of March 4,

Brackett

APPROVAL: 2020.

House Joint Memorial by House Ways and Means Senator Johnson

Committee; supporting updating the National

Environmental Policy Act (NEPA) rules.

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

**COMMITTEE SECRETARY COMMITTEE MEMBERS** 

Chairman Heider Sen Patrick Erin Miller Vice Chairman Brackett Sen Guthrie Room: WW37 Sen Bair Sen Stennett Phone: 332-1323

Email: sres@senate.idaho.gov Sen Jordan Sen Johnson

Sen Mortimer

### MINUTES

### SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, March 11, 2020

TIME: 1:00 P.M.

PLACE: Room WW55

**MEMBERS** Chairman Heider, Vice Chairman Brackett, Senators Bair, Johnson, Mortimer,

PRESENT: Patrick, Guthrie, Stennett, and Jordan

ABSENT/ None

**EXCUSED:** 

NOTE: The sign-in sheet, testimonies and other related materials will be retained with

the minutes in the committee's office until the end of the session and will then be

located on file with the minutes in the Legislative Services Library.

Chairman Heider called the meeting of the Senate Resources and Environment CONVENED:

Committee (Committee) to order at 1:04 p.m.

**PAGE** 

Chairman Heider said a farewell to the Committee's Page, Lexi Rich, and asked **GRADUATION:** her what her plans were once the session was over. Ms. Rich spoke of her future education plans. She further explained her experience being a Page and what she enjoyed most was that everyone was polite, respectful, and that the Senators

were all friends, even if they disagreed.

**MINUTES** APPROVAL: Vice Chairman Brackett moved to approve the Minutes of March 4, 2020. Senator

Bair seconded the motion. The motion carried by voice vote.

**HJM 15** 

House Joint Memorial (HJM) by House Ways and Means Committee; supporting updating the National Environmental Policy Act (NEPA) rules.

Senator Dan Johnson explained that this joint memorial supports the White House Council of Environmental Quality (CEQ) to comprehensively update the National Environmental Policy Act (NEPA) rules which has not been done since 1978, and to streamline the process. This update to the rules would modernize and clarify the CEQ regulations to facilitate more efficient, effective, and timely NEPA reviews by federal agencies by:

- simplifying regulatory requirements;
- codifying certain guidance and case law relevant to these proposed regulations:
- revising regulations to reflect current technologies and agency practices:
- eliminating obsolete provisions; and
- improving the format and readability of the regulations.

He summarized that the process for preparing an environmental impact statement is taking much longer than CEQ regulations and guidance recommended; and this would also include recommended page limits for the text of proposals. This memorial is asking the Senate and House to support moving vital projects forward in a timely manner.

DISCUSSION: Senator Stennett shared her understanding that NEPA was created to give people a voice because industry was not being held accountable for degradations that had occurred and people were getting sick. Senator Johnson spoke about the fact that this HJM does not protect industry versus protecting the people NEPA is currently helping. He pointed out that this HJM would clarify the meaning of regulations so the courts can make their decisions based upon sound rules. Senators Jordan and Johnson discussed that the laws apply on federal lands and the Native American tribes have a seat at the table to discuss the regulations. They also discussed how this HJM would not negatively impact energy development and the Clean Water Act. MOTION: **Senator Bair** moved to send **HJM 15** to the floor with a **do pass** recommendation. Senator Patrick seconded the motion. The motion passed by voice vote, with Senators Stennett and Jordan requesting that they be recorded as voting nay. Senator Johnson will carry the bill on the floor. ADJOURNED: There being no further business at this time. Chairman Heider adjourned the meeting at 1:26 p.m. Senator Heider Erin Miller Secretary Chair

## AGENDA SENATE RESOURCES & ENVIRONMENT COMMITTEE 1:00 P.M.

### Room WW55 Monday, March 16, 2020

SUBJECT	DESCRIPTION	PRESENTER
MINUTES APPROVAL:	Committee approval for Minutes of the March 9, 2020 meeting.	Senator Mortimer
	Committee approval for Minutes of the March 11, 2020 meeting.	Senator Johnson
<u>H 615</u>	Relating to water; to provide that a party asserting that a water right has been forfeited has the burden of providing convincing evidence; and that certain water rights shall not be lost or forfeited for nonuse; and to provide for third-party claims of right.	Paul Arrington, Executive Director and General Counsel, Idaho Water Users Association

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

<u>COMMITTEE MEMBERS</u> <u>COMMITTEE SECRETARY</u>

Chairman HeiderSen PatrickErin MillerVice Chairman BrackettSen GuthrieRoom: WW37Sen BairSen StennettPhone: 332-1323

Sen Johnson Sen Jordan Email: sres@senate.idaho.gov

Sen Mortimer

### MINUTES

### SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, March 16, 2020

**TIME:** 1:00 P.M.

PLACE: Room WW55

**MEMBERS** Chairman Heider, Vice Chairman Brackett, Senators Mortimer, Patrick, Guthrie,

**PRESENT:** Stennett, and Jordan

ABSENT/ Senators Bair and Johnson

EXCUSED:

APPROVAL:

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with

the minutes in the committee's office until the end of the session and will then be

located on file with the minutes in the Legislative Services Library.

**CONVENED:** Chairman Heider called the meeting of the Senate Resources and Environment

Committee (Committee) to order at 1:00 p.m.

MINUTES Chairman Heider moved to approve the Minutes of March 9, 2020. Senator

**Jordan** seconded the motion. The motion carried by **voice vote**.

Vice Chairman Brackett moved to approve the Minutes of March 11, 2020.

**Senator Patrick** seconded the motion. The motion carried by **voice vote**.

**H 615** Relating to water; to provide that a party asserting that a water right has been

forfeited has the burden of providing convincing evidence; and that certain water rights shall not be lost or forfeited for nonuse; and to provide for third-party claims

of right.

**Paul Arrington**, Executive Director and General Counsel, Idaho Water Users Association, spoke on behalf of water delivery entities. He described that a water right is a real property right and as such courts are hesitant to declare a water right forfeited. Courts have required a showing of clear and convincing evidence of nonuse before a water right can be deemed forfeit. This bill seeks to codify two long-standing legal principals relative to forfeiture of water rights, both of which were reiterated by the Idaho Supreme Court in Sagewillow, Inc. vs. Idaho Department of Water Resources, and Barnes vs. Jackson. This amendment further codifies the requirement that forfeiture of a water right must be proved by clear and convincing evidence, and the circumstances under which a water right owner may avoid a forfeiture by resuming use of the right before a third party establishes a

claim to the water. This bill identifies the circumstances to forfeiture and provides greater certainty. **Mr. Arrington** clarified the definition and standards of proof

regarding clear and convincing evidence.

**DISCUSSION:** Senator Stennett and Mr. Arrington discussed if a water right is out of use for five

years, could a third party take it over. **Mr. Arrington** clarified that basic law is after five years a water right is subject to forfeiture, though not automatic, and traditionally can change possession through several different methods. Also, other users may begin using the water that is left in the source due to nonuse. He illustrated that this bill clarifies forfeiture is not automatic due to affirmative action, and that a water

right owner can resume use of the water right and avoid forfeiture altogether.

**TESTIMONY:** Lynn Tominaga, President and Co-owner at Idaho Water Policy Group, Inc.,

testified in support of the bill.

MOTION:	recommendation. <b>Senator Patrick</b> seconded the motion. The motion passed by <b>voice vote</b> . Senator Brackett will carry the bill on the floor.		
ADJOURNED:	There being no further business at meeting at 1:17 p.m.	this time, <b>Chairman Heider</b> adjourned the	
Senator Heider Chair		Erin Miller Secretary	